AGENDA
2014 CONVENTIONAL FINANCING AND POLICY COMMITTEE
NATIONAL ASSOCIATION OF REALTORS®
2014 REALTOR® PARTY CONVENTION & TRADE EXPO
MARRIOTT WARDMAN PARK HOTEL
WILSON ROOM B
WEDNESDAY, MAY 14
10:00 AM - 12:00 PM

Chair:	**Mabel Guzman (IL)**
Vice Chair:	**John Wong (CA)**
Committee Liaison:	**Cynthia Shelton (FL)**
Committee Executive:	**Vijay Yadlapati & Charles Dawson**

I. Call to Order

II. Opening Remarks

III. NAR Conflict of Interest Statement

IV. Important RPAC Message

V. Approval of 2013 Annual Meeting Minutes

VI. Economic Update – Ken Fears, NAR Senior Economist

VII. Johnson-Crapo Housing Finance Reform Work Group Report – Mabel Guzman, Conventional Financing and Policy Committee Chair

VIII. Housing Finance Reform Update
  i. Seth Wheeler, National Economic Council, White House
  ii. Anthony Hutchinson, Director of Government and Industry Relations, Freddie Mac

IX. Impact of Student Loan Debt on Access to Credit – Keith Castaldo, Finance Counsel, U.S. Senator Gillibrand (D-NY)

X. Condo Working Group Update

XI. New Business

XII. Adjournment

OWNERSHIP DISCLOSURE AND CONFLICT OF INTEREST POLICY

Ownership Disclosure Policy

1. When NAR has an ownership interest in an entity and a member has an ownership interest* in that same entity, such member must disclose the existence of his or her ownership interest prior to speaking to a decision making body on any matter involving that entity.

2. If a member has personal knowledge that NAR is considering doing business with an entity in which a member has any financial interest**, or with an entity in which the member serves in a decision-making capacity, then such member must disclose the existence of his or her financial interest or decision making role prior to speaking to a decision making body about the entity.

3. If a member has a financial interest in, or serves in a decision-making capacity for, any entity that the member knows is offering competing products and services as those offered by NAR, then such member must disclose the existence of his or her financial interest or decision-making role prior to speaking to a decision making body about an issue involving those competing products and services.

After making the necessary disclosure, a member may participate in the discussion and vote on the matter unless that member has a conflict of interest as defined below.

Conflict of Interest Policy

A member of any of NAR's decision making bodies will be considered to have a conflict of interest whenever that member:

1. Is a principal, partner or corporate officer of a business providing products or services to NAR or in a business being considered as a provider of products or services ("Business:); or

2. Holds a seat on the board of directors of the Business unless the person's only relationship to the Business is service on such board of directors as NAR's representative; or

3. Holds an ownership interest of more than 1 percent of the Business.

   Members with a conflict of interest must immediately disclose their interest at the outset of any discussions by a decision making body pertaining to the Business or any of its products or services. Such members may not participate in the discussion relating to that Business other than to respond to questions asked of them by other members of the body. Furthermore, no member with a conflict of interest may vote on any matter in which the member has a conflict of interest, including votes to block or alter the actions of the body in order to benefit the Business in which they have an interest.

*Ownership interest is defined as the cumulative holdings of the member, the member's spouse, children, siblings and to any trust, corporation or partnership in which any of the foregoing individuals is an officer or director, or owns, in the aggregate, at least 50% of the (a) beneficial interest (if a trust), (b) stock (if a corporation) or (c) partnership interests (if a partnership).

**Financial interest means any interest involving money, investments, credit or contractual rights.

5/30/2000

TIME IS RUNNING OUT…

…TO MAKE COMMITTEE RECOMMENDATIONS FOR 2015!

Deadline: Friday, May 23, 2014

Don't know where or how to place a recommendation?

- ✦ Log onto REALTOR.org
- ✦ Hover over the "About NAR" tab at the top of the page, and click "Governance"
- ✦ Click "Committees" (upper left hand side)
- ✦ Click "Submit Recommendations for 2015 Committees"
- ✦ On the committee recommendation landing page, Click "Enter a recommendation" either for someone you know or a self-recommendation

Did you know?

- ✦ Members *can and should* make recommendations for themselves
- ✦ Members should seek quality recommendations from: NAR leadership figures (including Officers, Committee Liaisons, Regional Vice Presidents), current Chairs/Vice Chairs, NAR Directors, State and Local Associations, etc.

Have You Completed/Updated Your Expertise Profile?

Members interested in serving on NAR's committees are encouraged (but not required) to complete an Expertise Profile.

- ✦ From the committee recommendation landing page, click "Enter Your Expertise Profile"
- ✦ Create a new profile or edit an existing one
- ✦ **You can add a photo to your profile!**
- ✦ **Expertise Profiles are independent of the recommendation process - they can be completed or updated at any time!**

If you have any questions, contact Adrienne Kather, Executive Offices:
(312) 329-8434 or akather@realtors.org

NATIONAL ASSOCIATION *of* REALTORS®

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REALTORS®
REALTOR®
Leadership Team

Steve Brown, ABR, CIPS,
CRS, GREEN
2014 President

430 North Michigan Avenue
Chicago, IL 60611-4087

500 New Jersey Ave. NW
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steve@sbrownonline.com

May 2014

Dear NAR Committee Members:

As a committee member for the National Association of REALTORS®, I cannot thank you enough for your service and commitment to the real estate industry. You are greatly valued and one of the reasons our association is as strong as ever.

I have an important request of you as a leader of this association. The REALTORS® Political Action Committee (RPAC) is the backbone of the REALTOR® Party. RPAC enables us to have our "REALTOR® voice" heard in city halls, state capitols and in U.S. Congress. Simply put, our business and livelihood depend on the strength of RPAC. **To that end, I am asking each NAR Committee member to invest in RPAC by making a minimum investment of $15 by the yearend deadline of October 17, 2014. Committees that reach 100% RPAC participation by October 17 will be recognized at the 2014 REALTORS® Conference & Expo in New Orleans.** My personal goal is for every Committee to reach 100% RPAC participation. This would be the first time in the program's history and I know we can do it!

"The Time is Now!" so please step up and help us ensure our voices are heard at all three levels of government. **70% of your RPAC investment remains in your state**. Here are easy ways you can invest:

- Invest at the RPAC Table in the lobby of the Marriott Wardman Park during the REALTOR® Party Convention and Trade Expo
- Invest at your Local or State Association
- Invest online at www.realtoractioncenter.com/rpac (You will need your realtor.org ID and password)
- Call RPAC Staff at (202) 383-7509 to make an investment over the phone
- Download the REALTOR® Party Mobile App

On behalf of the entire NAR Leadership Team and RPAC Leadership, thank you in advance for your consideration. If you have any questions or concerns, please do not hesitate to contact RPAC staff member Rheana Scarborough at rscarborough@realtors.org or 202-383-1286.

Sincerely,

Steve Brown

Steve Brown
2014 President
National Association of REALTORS®

*Only REALTOR® members and REALTOR® Affiliate members will be tracked in the RPAC Committee Challenge - staff, non-members and inactive members are exempt from the challenge. It is illegal to solicit a non-member or inactive member for an RPAC investment.

Contributions are not deductible for income tax purposes. Contributions to RPAC are voluntary and are used for political purposes. You may contribute more or less than the suggested amount. You may refuse to contribute without reprisal and the National Association of REALTORS® or any of its state associations or local boards will not favor or disfavor any member because of the amount contributed. 70% of each contribution is used by your state PAC to support state and local political candidates. Until your state PAC reaches its RPAC goal 30% is sent to national RPAC to support federal candidates and is charged against your limits under 2 U.S.C. 441a; after the state PAC reaches its RPAC goal it may elect to retain your entire contribution for use in supporting state and local candidates.

EQUAL HOUSING
OPPORTUNITY

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.

MEETING MINUTES
2013 CONVENTIONAL FINANCING AND POLICY COMMITTEE
NATIONAL ASSOCIATION OF REALTORS®
2013 REALTORS® CONFERENCE
MARRIOTT MARQUIS SAN FRANCISCO HOTEL
YERBA BUENA SALON 8
FRIDAY, NOVEMBER 8, 2013
01:30 PM - 04:00 PM

I. Call to Order
Committee Chairwoman, Linda Lee, called the meeting to order at 1:30 PM.

II. Opening Remarks
Ms. Lee welcomed the members of the Committee and gave an overview of the extremely full agenda.

III. NAR Ownership Disclosure and Conflict of Interest Statement
The Chairwoman referred members to the Ownership Disclosure and Conflict of Interest Statement and asked that Committee members recuse themselves from discussions if they had any conflict.

IV. Approval of Previous Meeting's Minutes
Committee Vice Chairwoman, Mabel Guzman, asked the committee if there were any amendments to the minutes from the Midyear Meeting in May 2013. There were no changes and the minutes were approved by general consent.

V. Speakers

a) The Vice Chairwoman introduced Ken Fears, NAR Senior Economist, who provided the Committee with a report on the current state of the housing market as well as a forecast for 2014. While the housing market is generally improving, it still faces many headwinds such as slow job growth, decreased consumer confidence, tight credit standards, and the tapering of the Federal Reserve Board's mortgage bond purchase program.

b) The Vice Chairwoman introduced Brian Blaesser, an attorney consultant with Robinson & Cole, who briefed the Committee with his findings on the use of Eminent Domain as a tool for disposing of "underwater" mortgage loans. Mr. Blaesser also outlined the policy recommendation taken up by the State and Local Policy Issues Committee.

c) The Vice Chairwoman introduced Ted Tozer, President of Ginnie Mae, who provided the Committee with information on the role a government guarantee plays in providing access to affordable mortgages for consumers, as well as the immense size of the To-Be-Announced or "TBA" market. Given the size of our nation's housing market, Mr. Tozer indicated that a purely private mortgage market has never and will never be able to provide a sufficient amount of liquidity for a robust housing market.

VI. Subgroup Presentations
The Committee received reports from the GSE Funding Subgroup as well as the Joint Condo Working Group.

a) Conventional Financing and Policy Committee member Larry Black along with other members of the CF&P Committee presented the committee with research and information they have received from financial market participants and policy makers on different options for the capital required to sufficiently fund the secondary mortgage market. Mr. Black told the Committee that any future secondary housing finance system will need a significant amount of capital to function properly.

b) Conventional Financing and Policy Committee member Connie Glass-Birnbohm provided an update on the Joint Condo Working Group. Ms. Glass-Birnbohm reported that the Department of Housing and Urban Development are devising a revised checklist for recertification that should streamline the current process.

VII. Announcements

The Chairwoman referred members to the announcements in the agenda packet that included the time and location of the Legislative and Political Forum. She also reminded members to attend the trade exposition.

VII. Adjournment

Chairwoman Lee adjourned the meeting at 4:00 PM.

Johnson-Crapo Work Group Recommendation

On April 21, 2014, the Housing Finance Work Group met to discuss the Johnson-Crapo legislation and to formulate recommendations for the NAR Leadership Team regarding the position NAR should take on this bill. We first identified the provisions in the bill that are directly in line with NAR's principles and policy on GSE reform. The Work Group then debated 5 issues of concern that were raised on our previous calls. Both the positive aspects and issues of concern are outlined in the attached document. The Work Group made the following recommendations.

OVERALL POSITION

The Work Group believes that the Congressional discussion and legislative process for GSE reform should continue to move forward. The Work Group understands the Johnson-Crapo legislation contains many positive aspects such as an explicit government guarantee, continuing HERA conforming loan limits, and a lower down payment for first-time homebuyers; however, we are concerned with the potential impact on overall mortgage costs for consumers under this bill. As the Johnson-Crapo legislation discussion continues, NAR staff is directed to raise the following issues:

1. **Overall Cost of Mortgages for Consumers**
   We are in support of a first-loss position structure for private investors included in the legislation; however, we are concerned with the proposed percentage of the first-loss position and how the details of this new structure will impact the cost of mortgages for consumers. Currently there is an insufficient amount of data/studies to determine the overall impact on mortgage prices. Therefore, NAR should continue to examine and encourage further studies on the impact of mortgage costs for all borrowers as a result of this proposal. We also encourage continued analysis of the impact on overall liquidity of capital in the housing market.

2. **FMIC Size & Regulatory Authority**
   As stated in NAR's GSE reform policy, we support a strong regulatory body that will oversee the secondary housing finance system. We encourage NAR to work with other industry trade groups to ensure a coordinated and fair regulatory balance for the industry.

3. **Affordable Housing**
   The new housing funds appear to place little emphasis and funding towards homeownership. NAR should pursue modifications to the 3 trust funds to ensure adequate funding for homeownership opportunities, including housing counseling, other education programs and programs that promote sustainable homeownership for underserved markets.

4. **Availability of Private Capital & Market Participants (Vertical Integration)**
   As currently written, the legislation allows for financial institutions to participate in all aspects of the structure, which some fear could lead to a market dominated by large financial institutions. We understand that this has become a debate between large and small financial institutions. NAR's GSE reform policy supports equal and competitive access for financial institutions of all sizes. We are concerned with provisions in the legislation permitting entities that serve as guarantors to also participate as aggregators and/or originators. NAR should continue to monitor this discussion.

5. **Notification of First Lien Holder**

The proposed legislation requires the first lien holder of a mortgage to be notified by a potential second lien holder. As the proposal is currently written, we are concerned the notification process could create unintended negative consequences such as impairing a homeowner's ability to access their home equity. We are also concerned this provision could allow the senior lienholder to solicit the borrower for the same credit transaction. NAR staff should work the banking trade groups to modify this provision to mitigate these possible ramifications.

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Steve Brown, AB, CIPS, CRS, GREEN
2014 President

Dale A. Stinton
Chief Executive Officer

GOVERNMENT AFFAIRS DIVISION
Jerry Giovaniello, Senior Vice President
Gary Weaver, Vice President
Joe Ventrone, Vice President
Scott Reiter, Vice President
Jamie Gregory, Deputy Chief Lobbyist

Tuesday, April 29, 2014

The Honorable Tim Johnson
Chairman
Committee on Banking, Housing, & Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
Committee on Banking, Housing, & Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Crapo:

On behalf of the one million members of the National Association of REALTORS®, thank you for scheduling today's markup of the Housing Finance Reform and Taxpayer Protection Act of 2014.

We firmly believe that the status of the secondary mortgage market needs to be resolved in order to ensure that affordable mortgages are available to consumers and provide certainty in the functioning of our nation's mortgage finance system. We commend the Chairman and Ranking Member for their efforts to further the process of resolving the conservatorship of Fannie Mae and Freddie Mac.

NAR believes the Johnson-Crapo legislation contains many positive aspects such as an explicit government guarantee, which should ensure the availability of long term, fixed-rate mortgage products like the 30 year fixed-rate mortgage. The legislation also continues HERA conforming loan limits, and provides a lower down payment for first-time homebuyers. We understand the Committee is also working to address issues such as vertical integration, affordable housing and FMIC's regulatory authority.

This is a significant step forward in the housing finance reform discussion. However, NAR is concerned with the potential impact of this legislation on overall mortgage costs for consumers. Thus far, there is inconclusive evidence demonstrating the impact on mortgage prices for creditworthy borrowers at all levels. Therefore, we believe this issue needs further examination to accurately understand the effect this legislation may have on the U.S. housing market. We will continue to evaluate and work with you on this issue.

We commend the Senate Banking Committee for taking on the important and complex task of revamping the secondary mortgage finance system. The debate on housing finance reform must continue to advance. We look forward to participating in this important discussion.

Sincerely,

Steve Brown

Steve Brown
2014 President, National Association of REALTORS®

cc: Members of the Committee on Banking, Housing, & Urban Affairs

NAR Principles for Restructuring the Secondary Mortgage Market and Encouraging the Return of Private Capital

NAR supports restructuring the secondary mortgage market to ensure a reliable and affordable source of mortgage capital for consumers, in all types of markets, to avoid a major disruption to the nation's economy that would result from the total collapse of the housing finance sector. Restructuring is required in response to the failure of Fannie Mae and Freddie Mac, which has been under government control since entering conservatorship in September 2008.

- **An efficient and adequately regulated secondary market is essential to providing affordable mortgages to consumers.** The secondary market, where mortgages are securitized, is an important and reliable source of capital for lenders and therefore for consumers. Without a secondary market, mortgage interest rates would be unnecessarily higher and unaffordable for many Americans. In addition, a poorly functioning secondary market will impede both recovery in housing sector and the overall economy.

- **The old GSE system with private profits and taxpayer loss must be replaced**. The current GSEs (Fannie Mae and Freddie Mac) should be replaced with government-chartered, non-shareholder owned entity(s) that are subject to sufficient regulations on product, revenue generation and usage, and retained portfolio practices in a way that ensures they can accomplish their mission to support long-term mortgage financing and protect the taxpayer.

- **Reforms should ensure a strong, efficient financing environment for homeownership and rental housing**. The mission of the new entity must include providing access to mortgage financing for consumers who have the demonstrated ability to sustain homeownership. Creditworthy consumers require a steady flow of mortgage funding that, during economic downturns, only government participation in the secondary mortgage market can provide.

- **The government must clearly, and explicitly, offer a guarantee of mortgage instruments facilitated by the entity(s) that meet the Qualified Mortgage (QM) standards**. This is essential to ensure qualified, creditworthy borrowers have access to affordable mortgage credit. Without government backing, consumers will pay much higher mortgage interest rates and mortgages may at times not be readily available at all—as happened in jumbo and commercial real estate loans. Taxpayer risk would be mitigated through the use of mortgage insurance on loan products with a loan-to-value ratio higher than 80 percent, or through other fees paid to the government.

- **The new entity(s) should guarantee or insure a wide range of safe, reliable mortgage products**. These mortgage products include 15-year and 30-year fixed rate loans, traditional adjustable-rate mortgages (ARMs), and other products that have stood the test of time and for which American homeowners have demonstrated a strong "ability to repay."

- **Provide a self-sufficient mechanism whereby safe, sound, transparent, and insured Mortgage Backed Securities (MBS) may be packaged and sold.** There must be an option for an explicit government guarantee or insurance for all offered MBS within the secondary mortgage market. The creation of a not-for-profit "utility" facility is needed to receive, package, sell and guarantee MBS. The entity should operate with similar insurance and enforcement components as the FDIC. This option must minimize taxpayer exposure.

- **Sound and sensible underwriting standards must be established**. Establish standardized, sound underwriting principles and products that provide the foundation for responsible, credit worthy borrowers to be able to achieve homeownership goals. For additional safety, these standards must also be applied to securities (MBSs), purchased for portfolio (to a limited extent).

- **The entity(s) should price loan products or guarantees based on risk**. In addition, the new entities must set standards for the MBS they guarantee that establish transparency and verifiability for loans within the MBSs.

- **Ensure solid, verifiable, current loan level data is available to investors that empowers and enables them to conduct their own risk analysis.** There is a strong consensus among multiple market participants that solid loan level data is the essential foundation from which to rebuild the private mortgage security industry. Investors want to be empowered and enabled to conduct their own analysis. With properly structured loan level data the mortgage collateral supporting a regulated, securitized instrument will lead to a verifiable, current predictable instrument of cash flow and thus will attracting private capital.

- **The reformed entities must have a separate legal identity from the federal government but serve a public purpose**. Unlike a federal agency, the entities will have considerable political independence and be self-sustaining given the appropriate structure.

- **The GSEs should remain politically independent**. Political independence of the entities is mandatory for successful operation. CEOs should have fixed terms so they cannot be fired without cause, and they should not be allowed to lobby. Additionally, the entities should be self-funded instead of receiving ongoing appropriations.

- **To increase the use of covered bonds, particularly in the commercial real estate arena, the entities should pilot their use in multifamily housing lending**. The entities should explore the use of covered bonds as an additional method to provide more mortgage capital for residential housing. The entities should be allowed to pave the way for innovative or alternative finance mechanisms that meet safety criteria.

- **There must be strong oversight of the entities**. The new entities should be overseen by the Federal Housing Finance Agency (FHFA) or a successor agency that would make timely reports to allow for continual evaluation of the entities' performance.

- **Restore investor confidence and trust in the Representations and Warranties via the standardization of pooling and servicing contracts.** Standardization of Representations and Warranties is imperative. Pooling and Servicing Agreements (PSAs) must be simple with clear terms and definitions so they are easily understood by investors. They must have clear disclosures of any deviations from "Federal Best Practice Standards", clearly define "buy back" rules, and servicer operational policies must be consistent with their fiduciary duties to the investor.

Summary of Senate Banking Committee Leaders' Bipartisan Housing Finance Reform Draft

The housing market accounts for nearly 20 percent of the American economy, so it is critical that we have a strong and stable housing finance system that is built to last. The status quo in which Fannie Mae and Freddie Mac remain in conservatorship is not a sustainable option for our nation's housing finance system. In an effort to address these concerns and find bipartisan consensus, the Senate Banking Committee hosted an in-depth series of hearings and briefings in the fall of 2013 exploring essential elements necessary for reform. Building on Senator Corker and Warner's bill S.1217 and what was learned throughout the Committee process, Chairman Johnson and Ranking Member Crapo released a bipartisan draft that is designed to protect taxpayers from bearing the cost of a housing downturn; promote stable, liquid, and efficient mortgage markets for single-family and multifamily housing; ensure that affordable, 30-year, fixed-rate mortgages continue to be available, and that affordability remains a key consideration; provide equal access for lenders of all sizes to the secondary market; and facilitate broad availability of mortgage credit for all eligible borrowers in all areas and for single-family and multifamily housing types.

A New Housing Finance System

This bipartisan draft winds down and eliminates Fannie Mae and Freddie Mac and establishes the modernized, streamlined and accountable Federal Mortgage Insurance Corporation (FMIC), modeled in part after the FDIC. New entities will be regulated by FMIC in the same manner banks are regulated by the FDIC. It also creates a reinsurance fund, known as the Mortgage Insurance Fund, to protect taxpayers.

The new system establishes a type of mortgage-backed security with an explicit government backstop and 10% first loss private secondary market capital to absorb losses and protect taxpayers from future bailouts. This system is intended to help avert another catastrophic housing crisis. In general, these securities will be executed in the following manner:

- *Originators*: Originators underwrite mortgages for homebuyers and sell eligible mortgage loans into the secondary market.
- *Aggregators*: Aggregators pool the mortgages they purchase or originate, and after obtaining a guarantee from a guarantor or a credit enhancement through a capital markets execution, they deliver the pool to a Securitization Platform to be issued with a FMIC-backed government guarantee.
- *Guarantor execution*: Guarantors hold 10% capital and provide a guarantee on mortgage-backed securities (MBS). The government backstop only applies when the guarantor fails.
- *Capital markets execution*: Investors hold fully-funded first loss positions of at least 10% of the mortgage-backed security's value, putting private capital in front of the government guarantee. All types of capital markets mechanisms must be approved by FMIC.

Small lenders will have multiple access points to the secondary mortgage market, including the option to sell their individual loans through a new small lender mutual. The mutual will be jointly owned by small lenders, providing community banks, credit unions, and other small lenders direct access to the secondary market so that they will not be at the mercy of their larger competitors when Fannie Mae and Freddie Mac are dissolved.

The new system protects taxpayers and levels the playing field for all creditworthy borrowers, includes strong, market-based incentives for lenders to support the housing market in underserved communities, and provides certainty to investors and homeowners through standardization and improved market liquidity.

Federal Mortgage Insurance Corporation

The bipartisan draft establishes the Federal Mortgage Insurance Corporation (FMIC), which is charged with assuring the safety and soundness of entities in the new housing finance system as well as fair access and treatment to consumers in the mortgage market.

The FMIC is designed to:

- facilitate a liquid, transparent, and resilient single-family and multifamily mortgage loan credit market by supporting a robust secondary mortgage market;
- provide insurance on any mortgage-backed security that satisfies FMIC standards;
- monitor and supervise participants in the FMIC mortgage market; and
- facilitate the broad availability of mortgage loan credit and secondary market financing through fluctuations in the business cycle for eligible single-family and multifamily lending across all regions, localities, institutions, and property types – including housing that serves both renters and eligible borrowers.

Management

FMIC will be managed by an accountable, independent bipartisan board of directors. The board of five members will be appointed by the President and confirmed by the Senate.

The President will appoint one of the board members to be the Chairperson and one to be the Vice Chairperson and no more than three of the board members may be members of the same political party.

Advisory Committee

An advisory committee will be created to provide a mechanism for stakeholders to provide input to, and consult with, the board of directors and the Office of Consumer and Market Access on developments in the primary and secondary mortgage markets and their interaction with the ongoing mission of FMIC.

The Advisory Committee will be made up of nine members who have diverse experience with mortgage origination at community financial institutions, private mortgage insurance, consumer protection, multifamily housing, affordable rental housing, and asset management.

Underwriting Standards

FMIC underwriting standards will be robust and mirror the definition of "qualified mortgage", and set the down payment requirement at 3.5% for first time homebuyers and at 5.0% for other homebuyers (established over a short phase-in period).

Supervision Authority

FMIC is designed to be a strong regulator with supervision and examination powers. FMIC will be given the authority to:

- approve and supervise guarantors who back securities insured by FMIC;
- approve and supervise aggregators who deliver mortgages to the Securitization Platform for securitization as FMIC-insured securities ("Aggregators" are essentially the same as "Issuers" in S. 1217);

    - The Federal Home Loan Banks will be given the ability to form subsidiaries that may serve as approved aggregators.
- approve private mortgage insurers (PMIs) who want to participate in the new system; and
- approve standards for servicers of eligible mortgage loans that must not disadvantage small servicers.

FMIC will be given the authority to take enforcement actions against approved guarantors, aggregators, PMIs, and servicers found to be in violation of the law.

Smooth Transition to New System

Enabling a smooth transition to a new housing finance system is critical to ensuring stability in the housing market. The bipartisan draft maintains the 5-year transition period from S.1217 and adds flexibility by allowing for extensions if they are necessary to prevent market disruptions and spikes in borrowing costs. It creates a framework to simultaneously ramp up the new housing finance system while winding down Fannie Mae and Freddie Mac in an effort to accelerate the time it will take for a new system to be fully in place. Six months following enactment, FHFA's functions, powers, and duties are transferred to FMIC, and FHFA exists as an independent office within FMIC. FHFA will continue to be responsible for supervision and regulation of the GSEs and the Federal Home Loan Banks as well as the conservatorship of the GSEs. As of FMIC's certification date, Fannie Mae and Freddie Mac will no longer be able to conduct new business.

FMIC Leadership

The FHFA Director at the time of the transfer continues in that role and will serve as the Transition Chair of FMIC until a FMIC Chairperson is nominated by the President and confirmed by the Senate.

Transition Committee

The bipartisan draft establishes a Transition Committee to advise the FMIC Transition Chair or the FMIC Board of Directors. The Transition Committee is formed upon enactment and will be tasked with producing a transparent transition plan with measurable goals that will be communicated to Congress, investors, and the public.

Transition Financing

From enactment until the date on which the enterprises are prohibited from engaging in new business, assessments are collected from the enterprises in order to fund the operations of FMIC. These assessments will be used for administrative costs of FMIC, as well as to establish the Securitization Platform, the Small Lender Mutual, and multifamily subsidiaries of the enterprises. These assessments will also be used to capitalize the Mortgage Insurance Fund, which serves as an important buffer between taxpayers and credit losses.

Level Playing Field for Creditworthy Borrowers

A new housing finance system must ensure that the American dream of homeownership is attainable for all creditworthy borrowers in all areas. Approved guarantors and aggregators cannot discriminate in the new system consistent with current law. This bipartisan draft establishes market-based incentives for lenders to promote business in underserved areas.

Affordable Housing Allocations

The measure establishes an initial and incentive-based fee structure to support the Housing Trust Fund, the Capital Magnet Fund, and the newly-created Market Access Fund and authorizes FMIC to collect these fees. The incentive fee structure will be established by FMIC. The transparent and accountable housing-related funds will focus on ensuring there is sufficient, quality housing available. The funds are NOT paid for with tax dollars, but through a FMIC user fee (10 basis points) that is paid only by those institutions who choose to use the new system.

Supporting Rural and Tribal Housing Needs

The bipartisan draft makes changes to the Housing Trust Fund to require a set-aside for federally-recognized tribes, which will be administered by HUD through a competitive grant process aimed at meeting the housing challenges facing Indian Country. It also increases the minimum allocation a state will receive under the Housing Trust Fund. And, it issues a new requirement that the Capital Magnet Fund consider tribal housing needs.

Promote Lending Innovations to Address the Needs of Underserved Communities

A new Market Access Fund will be created to support innovation in responsible lending products, education, underwriting, and servicing that will help address the homeownership and rental housing needs of underserved communities. FMIC's Office of Consumer and Market Access will be responsible for maintaining and administering the Market Access Fund.

Maintain Conforming Loan Limits

Underserved communities are not the only areas with concerns about access to mortgage credit. Many high population-density areas have housing markets where the cost of homes far exceeds the national average. Homebuyers in these areas often need access to additional credit to be able to afford a modest home. The bipartisan draft will allow current conforming loan limits to be maintained so that mortgage credit continues to be available in high-cost areas.

Preserve the To-Be-Announced Market

The measure will allow consumers the certainty of locking-in interest rates prior to closing on a home and ensure the availability of the 30-year fixed-rate mortgage by maintaining broad liquidity in the To-Be-Announced (TBA) market. It also directs FMIC to take into account the impact of new products on the TBA market.

Elimination of the Affordable Housing Goals

The bipartisan draft will eliminate the affordable housing goals of Fannie Mae and Freddie Mac.

Office of Consumer and Market Access

The bipartisan draft establishes an Office of Consumer and Market Access (OCMA) within FMIC which will be responsible for:

- administering the Market Access Fund;
- monitoring national and regional markets for the needs of underserved markets, communities, populations and consumers;
- reporting on the FMIC securities market and available liquidity, and conducting studies on incentives to encourage the serving of underserved markets;

- providing technical assistance and best practice information to market participants and approved entities regarding communities identified as underserved in an effort to help address the housing needs of consumers in those underserved communities.

Small Lender Access

Small mortgage lenders play a key role in offering credit in our current national housing finance system. Often, small lenders are the only lenders offering credit to rural or low-to-moderate income creditworthy borrowers. Any reforms to the housing finance system must preserve small lender access to the secondary mortgage market.

Small Lender Mutual

The bipartisan draft creates a small lender mutual, a member-owned and-operated cooperative, to ensure the secondary market needs of its members. Members may include:

- depository institutions with $500 billion or less in assets;
- non-depository Institutions with a minimum of $2.5 million in net worth and annual mortgage production less than $100 billion;
- community Development Financial Institutions (CDFIs), mission-based non-profit lenders, and State Housing Finance Agencies (HFAs); and
- federal Home Loan Banks

The mutual will provide members with:

- a cash window in which to sell individual, eligible mortgages;
- pooling, aggregation and securitization services; and
- assistance in retaining servicing rights.

The small lender mutual will be governed by a board of directors selected from the mutual's membership. The mutual board has authority to set membership standards and fees. However, fees must be equitably assessed and cannot discriminate based on member size, loan volume, or entity type.

Securitization Platform

The Securitization Platform will improve standardization and liquidity in the secondary mortgage market. It will create a standardized security to be used for all FMIC guaranteed securities in order to promote broad mortgage availability for 30-year, fixed-rate mortgages, and will be available for the issuance of private label securities. The Platform will provide infrastructure for market participants of all sizes seeking to securitize mortgages, and will not assume or hold credit risk.

Ownership

The Securitization Platform will be an independent cooperative, or other corporate entity acting as a utility, owned and operated by its members and regulated by FMIC.

Management

An initial five-member board of directors comprised of Platform members will be established by FMIC. Following the expiration of the initial board terms, the subsequent board will be comprised of nine elected directors made up of representatives of the members in the Platform.

At least one director must represent the interest of small mortgage lenders, and one member will be an independent director.

Enforcement and Fees

The Platform will create and enforce rules for its members and establish fees that would be submitted to FMIC for review.

Fees would generally be uniform and based on member usage of the Platform.

The Platform directors will also have the discretion to:

- set tiered usage fees that will facilitate Platform access for small mortgage lenders, including CDFIs, and other organizations that promote the goals of affordable housing; and
- set different usage fees for the issuance of FMIC securities than the usage fees charged for the issuance of non-FMIC securities

Membership

The Platform directors are responsible for approving membership to the platform. Those eligible for membership include:

- mortgage aggregators;
- mortgage guarantors;
- mortgage originators;
- Federal Home Loan Banks;
- small lender mutuals; and
- any other market participants, provided that in the sole determination of the Platform directors having such market participant as a member of the Platform is necessary or helpful to fulfilling the purposes and obligations of the Platform.

Platform Agreements

All FMIC securities using the Platform will be required to use a Uniform Securitization Agreement for FMIC guaranteed securities.

Non-FMIC securities issued using the Platform will be required to use agreements that include a common set of basic contractual terms.

The Platform directors may establish an Optional Uniform Agreement for non-FMIC Securities that will have requirements that could differ from those specified by the Uniform Agreement for FMIC Securities.

Non-FMIC securities issued through the Platform will have the option, but not the requirement, to use the Uniform Agreement for FMIC Securities, or the Optional Uniform Agreement for non-FMIC Securities.

Nothing will prohibit off-Platform, non-FMIC securities from adopting either the Uniform Agreement for FMIC Securities, the Optional Uniform Agreement for non-FMIC securities, or the common set of basic contractual agreement terms required for all non-FMIC securities issued through the Platform.

Multifamily

Multifamily housing is an important – and growing – segment of the nation's housing market. Across the country, 35 million renters call multifamily housing home, with demographic trends such as the growing numbers of empty nesters indicating increasing demand in the future. The bipartisan draft builds upon proven secondary market products while establishing important new provisions aimed at maintaining a vibrant multifamily market in the new housing finance system.

The multifamily housing programs of the GSEs successfully maintained credit quality throughout the financial crisis, experiencing default rates of less than 1%. During the transition period, the GSEs will be permitted to continue offering these products to support the multifamily market while laying the groundwork for the future system through the establishment of distinct multifamily subsidiaries within each enterprise to support the transition to the new finance system.

Future System

FMIC will approve multifamily guarantors to both guarantee the first loss position on multifamily securities and issue securities for which they provide guarantees. The bipartisan draft provides that the successful mechanisms currently offered by the enterprises, the DUS and Series K products, can be used by approved multifamily guarantors in the new system. Approved multifamily guarantors will have 10% capital requirements standing before the public guarantee.

Continuing to Serve Working Families

Each enterprise and approved multifamily guarantor must ensure that 60% of the rental housing units financed are affordable to low-income families (families with incomes at or below 80% of Area Median Income) at origination. FMIC may suspend or adjust this requirement in the event of economic distress or adverse market conditions.

Improving Access for Smaller Properties

Smaller properties – those with less than 50 units – serve families in urban, suburban, and particularly rural areas. As important a source of housing as these properties are, they often face barriers accessing the secondary market. The bipartisan draft establishes a pilot program in FMIC's Office of Multifamily Housing to test and assess methods or products designed to increase secondary mortgage market access for small multifamily properties.

Office of Multifamily Housing

Recognizing the unique nature of the multifamily housing market, the bipartisan draft creates an Office of Multifamily Housing within FMIC to provide special focus on multifamily housing.

Taxpayer Protections

Winds Down and Eliminates Fannie Mae and Freddie Mac

The legislation will wind down and ultimately eliminate Fannie Mae and Freddie Mac, through a responsible, stable transition to a new system by providing specific benchmarks and timelines.

High Capital Requirements for Future Market Participants

All future mortgage-backed security guarantors would be completely private and be required to hold a minimum of 10% private capital. The bill further prohibits bailing out any of these institutions in the event that they fail.

Private Capital in a First Loss Position

To be eligible for Federal Mortgage Insurance Corporation (FMIC) reinsurance, any market structured mortgage-backed security must first secure private capital in a first loss position of at least 10%.

Strong Underwriting

Borrowers would need to have at least 5% equity in the home to ensure against a downturn in the market. First-time homebuyers would be allowed to purchase with at least a 3.5% minimum equity. Borrowers would need to meet further underwriting requirements establishing an "ability-to-repay."

Mortgage Insurance Fund to Further Protect Taxpayers

The FMIC would be required to maintain a re-insurance fund, known as the Mortgage Insurance Fund, and modeled after the Deposit Insurance Fund that is maintained by the FDIC. The Mortgage Insurance Fund will be funded by private companies that choose to participate in the new housing finance system, not by taxpayers.

Section-by-Section of Senate Banking Committee Leaders' Bipartisan Housing Finance Reform Draft

Sec.1. Short Title; Table of Contents.

Sec.2. Definitions.

TITLE I—ELIMINATION OF FANNIE MAE AND FREDDIE MAC

Sec.101. Elimination of Fannie Mae and Freddie Mac.
This section provides that over time, FMIC will eliminate, dissolve and repeal the charters of Fannie Mae and Freddie Mac.

TITLE II—FEDERAL MORTGAGE INSURANCE CORPORATION

Sec.201. Establishment.
Six months after enactment, the Federal Mortgage Insurance Corporation (FMIC) is created. FMIC is an independent agency responsible for providing insurance on mortgage-backed securities that meet the conditions spelled out in Title III, and facilitating the broad availability of mortgage loan credit and secondary market financing through fluctuations in the business cycle for eligible single-family and multifamily lending across all regions, localities, institutions, property types, including housing serving renters, and eligible borrowers. FMIC will supervise guarantors, aggregators, servicers, and private mortgage insurers, as well as the Federal Home Loan Banks, the Securitization Platform, and the small lender mutual.

Sec.202. Management of Corporation.
This section lays out the structure of FMIC's management. FMIC will be run by a 5-member bipartisan board of directors, each of whom will be appointed by the President with the advice and consent of the Senate for 5-year terms. Of those 5 members, the President will appoint one to serve as the Chairperson and one to serve as the Vice Chairperson. The initial terms of 3 of the board members will be shorter to permit staggered terms for board members in the future. This section also requires board-level decisions to be made by a majority vote of all board members.

Sec.203. Advisory Committee.
This section establishes a 9-member Advisory Committee to assist the FMIC board and the Office of Consumer and Market Access (OCMA). The FMIC Chairperson appoints the members of the Advisory Committee, subject to the requirement that Committee is made up of members with diverse experiences including those related to mortgage origination, credit unions, community banking, private mortgage insurance, consumer protection, multifamily housing, affordable rental housing, and asset management. The Advisory Committee will report to the FMIC board and the OCMA on several areas of the housing market described in this section.

Sec.204. Office of the Inspector General.
This section creates an Office of the Inspector General within FMIC to oversee FMIC and also transfers the powers of the FHFA Inspector General into this office. The FMIC IG will be funded by FMIC.

Sec.205. Staff, experts, and consultants.
FMIC employees will receive compensation and benefits like those of FHFA, the federal banking agencies, the National Credit Union Administration Board, the Office of Financial Research, the Bureau of Consumer Financial Protection, the Commodity Futures Trading Commission, and the Farm Credit Administration. FMIC employees are not subject to the general schedule pay scale.

Sec.206. Reports; testimony; audits.
Once the new mortgage finance system is fully operational, FMIC is required to submit annual reports to Congress describing the Corporation's activities over the previous year. The contents of the report must include an update on the health of the Mortgage Insurance Fund (MIF) and the private-label mortgage-backed securities market, as well as the OCMA's report on underserved markets served by FMIC's covered securities, among other requirements. The FMIC Chairperson must also testify annually before Congress about the annual report.

This section also requires the Comptroller General of the United States to conduct an annual audit of FMIC and the MIF and submit to Congress a report on the results.

Sec.207. Specific offices.
FMIC will have authority to create any offices it determines necessary, but this section requires FMIC to establish an Office of Underwriting, and Office of Securitization, and Office of Federal Home Loan Bank Supervision. The minimum functions of each of these offices is also described within this section.

Sec.208. Office of Consumer and Market Access.
This section establishes the Office of Consumer and Market Access (OCMA) within the FMIC and outlines the functions and responsibilities of the office. These include, but are not limited to: administering the Market Access Fund; monitoring national and regional markets to identify underserved markets, communities and consumers; assisting market participants and Federal agencies with efforts to meet the housing needs of underserved markets; producing an annual report assessing the covered securities market, including the extent to which it is providing liquidity to eligible borrowers in underserved markets; and conducting annual studies on incentives to encourage primary market lending to underserved markets.

Sec.209. Office of Multifamily Housing.
This section creates the Office of Multifamily Housing within FMIC to oversee the activities related to multifamily housing.

Sec.210. Equitable access for lenders and borrowers.
The section directs FMIC to support the primary mortgage market to help ensure that all eligible borrowers have equitable access to mortgage loan credit, including underserved segments of the primary mortgage market.

To accomplish this, FMIC must issue regulations to identify and define underserved primary mortgage market segments in which lenders and eligible borrowers lack equitable access to the secondary mortgage market. Examples of underserved market segments may include traditionally underserved areas, including rural and urban areas; manufactured housing; small balance loans; low- and moderate-income creditworthy borrowers; and affordable rental housing.

Each approved guarantor and approved aggregator in the government-guarantee system will submit an annual public report describing its actions to provide credit to the underserved market segments identified and defined by FMIC. The annual report will be approved by the board of directors and signed by the chief executive officer of the approved guarantor or approved aggregator.

FMIC may not influence an approved guarantor's or approved aggregator's selection of eligible mortgage loans to guarantee or purchase in order to fulfill FMIC's obligation to ensure equitable access under this title.

TITLE III—DUTIES AND RESPONSIBILITIES OF THE FMIC

Subtitle A—Duties and Authorities

Sec.301. Duties and responsibilities.
This section spells out the duties and responsibilities of FMIC.

Sec.302. Standard form credit risk-sharing mechanisms.
This section authorizes FMIC to establish standards for first loss credit risk-sharing mechanism that will absorb the first 10 percent of mortgage losses on FMIC insured mortgage-backed securities. In approving first loss risk-sharing structures, FMIC may consider a variety of alternatives, including structures similar to those currently used by the enterprises. In addition, risk-sharing mechanisms must satisfy several criteria, including minimizing the cost to the taxpayer, accommodating broad mortgage availability, preventing undue risk to the MIF and avoiding impairing the TBA market. FMIC may also approve risk-sharing structures used by guarantors to manage mortgage credit risk related to guarantees on FMIC insured mortgage-backed securities. In addition, there will be an annual report to Congress on the risk-sharing structures considered and approved.

Sec.303. Insurance; Mortgage Insurance Fund.
This section establishes the Mortgage Insurance Fund, which will fund insurance claims on the principal and interest of FMIC-backed securities if losses exceed the private market first loss positions. The MIF will be funded initially by assessments on Fannie Mae and Freddie Mac and sustained in the future by fees on FMIC-backed securities. This section sets a target for the MIF reserve ratio of 1.25 percent of the unpaid principal balance of the covered securities within the first 5 years, and 2.5 percent within 10 years and thereafter, thus ensuring that the MIF has sufficient funds to provide a backstop to the market while protecting the taxpayer.

Sec.304. Loan limits; Housing Price Index.
This section establishes the maximum original principal obligation of eligible single-family mortgage loans that may collateralize FMIC-backed securities. FMIC must annually adjust these limits based on changes to housing prices in different geographic areas. FMIC may not reduce the loan limits.

Sec.305. Authority to protect taxpayers in unusual and exigent market conditions.
If the Corporation, the Chairman of the Federal Reserve Board of Governors and the Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, determine that unusual and exigent circumstances threaten mortgage credit availability within the U.S. housing market, FMIC may provide insurance on covered securities that do not meet the requirements under section 302 including those for first loss position of private market holders. FMIC may also establish provisional standards for approved entities. FMIC may exercise these authorities for an initial period of six months and for two additional nine month periods within any given three-year period. The second exercise requires the affirmative vote of two-thirds of the Board of Directors, in addition to the written agreement of the Chairman of the Federal Reserve Board of Governors and the Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, while the third exercise requires the affirmative vote of two-thirds of the Board of Directors, and two-thirds of the Federal Reserve Board, in addition to the written agreement of the Chairman of the Federal Reserve Board of Governors and the Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development.

After any exercise of this authority, FMIC would establish a normalization timeline for approved entities to meet the regular standards they would otherwise be subject to, and establish a program to sell the first loss position to the private market to minimize losses to the MIF.

In addition, in the event of a significant nationwide decline in home prices, FMIC may permit the transfer of guarantees of eligible mortgage loans that secure covered securities if such eligible loans are refinanced regardless of the value of the underlying collateral. This authority is granted with an affirmative vote of two-thirds members of the Board of Directors for a six month period, extended for additional six month periods with the affirmative approval of two-thirds of the Board of Directors.

Bailouts to financial market entities to avoid insolvency or to those entities already insolvent are strictly prohibited.

Sec.306. General powers.
FMIC has power to enter into, execute, and perform contracts, leases, cooperative agreements, and other transactions. Additionally, FMIC will have the authority to lease, purchase, or acquire any property. It will

appoint and supervise personnel, as well as establish and maintain divisions, units, or other offices. FMIC is authorized to collect fees on regulated and approved entities and the Federal Reserve banks will serve as depositories, custodians, and fiscal agents.

Sec.307. Exemptions.
This section exempts FMIC-backed securities from SEC registration, credit risk retention requirements, and the definition of a commodity pool. This section also provides that credit-risk sharing mechanisms approved by FMIC will not be subject to the SEC's conflict of interest rules for asset-backed securities.

Sec.308. Regulatory consultation and coordination.
Under Section 308, FMIC is permitted to consult, and required to coordinate with, Federal and State regulatory agencies in carrying out the requirements of the Act. To the extent possible, FMIC must seek to avoid duplication or conflicts with the regulatory activities of other agencies. Section 308 also permits information sharing between FMIC and other Federal and State agencies.

Sec.309. Authority to issue regulations.
This section provides FMIC general rule-writing authority to carry out this Act and requires the Chairperson of FMIC to consider differences between Federal Home Loan Banks, Fannie Mae, and Freddie Mac when writing regulations or taking formal or informal actions. FMIC must also set standards for the purchase of force-placed insurance by approved entities, private market holders, or members of the Securitization Platform.

This section also requires FMIC to establish capital and solvency standards for approved guarantors, approved multifamily guarantors, and approved aggregators that are not affiliated with an insured depository institution (IDI) (aggregators who are IDIs would be subject to bank capital rules).

FMIC is required to write rules in a manner that promotes competition, and they will issue supplemental capital rules for large guarantors and aggregators to mitigate system risk. FMIC must also establish market-share limitations for approved aggregators and approved guarantors that will take effect if FMIC determines the supplemental capital standards are insufficient.

This section requires FMIC offices to develop standards to protect personally identifiable information, and limits the sharing of this information within FMIC and with other Federal or State agencies unless necessary and appropriate to comply with this Act, the records are relevant to an investigation, or the Federal or State agency satisfies the information-sharing conditions established by FMIC.

Sec.310. Equivalency in the protection of the Mortgage Insurance Fund.
This section requires FMIC to seek to ensure equivalent loss absorption capacity between approved credit risk-sharing mechanisms and capital standards for approved guarantors.

Subtitle B—Approval and Supervision of Approved Entities for Single-family Activities

Sec.311. Approval and supervision of guarantors.
This section describes FMIC's authority to approve, supervise, and resolve guarantors who back securities insured by FMIC. FMIC's supervisory and resolution authorities are modeled after the FDIC's safety and soundness authority over IDIs. FMIC must issue approval and prudential standards for the ongoing operation of approved guarantors and may require reports from and conduct on-site examinations of approved guarantors. For a critically undercapitalized approved guarantor, FMIC will have resolution authority, which permits FMIC to act as conservator or receiver. Also, like the FDIC's authority over IDIs, FMIC will also have authority to take enforcement actions against approved guarantors for violations of the Act.

FMIC is also required to include in its capital and solvency standards requirements that approved guarantors hold 10 percent capital as a protection against losses that may be incurred during a period of economic stress. Approved guarantors with over $10 billion in assets will be subject to FMIC-conducted stress tests.

Sec.312. Approval and supervision of aggregators.
This section describes FMIC's authority to approve, examine, and resolve aggregators who deliver mortgages to the platform for securitization as FMIC-insured securities. FMIC must issue approval standards for all aggregators seeking to become approved aggregators. Some IDIs may apply to be approved aggregators and, in recognition of the federal banking agencies' safety and soundness supervision of IDIs, this section requires FMIC to create different prudential standards for approved aggregators based on their relationship with an IDI. FMIC's supervisory and resolution authorities over approved aggregators are modeled after the FDIC's safety and soundness authority over IDIs, though the authorities are tailored based on the approved aggregator's affiliation with an IDI. FMIC will also have authority to take enforcement actions against approved aggregators for violations of the Act, similar to the FDIC's enforcement authority over IDIs.

FMIC may require reports from and conduct on-site examinations of approved aggregators that are not affiliated with an IDI, in the same way that the FDIC may require reports and examine IDIs. FMIC must make use of existing reports, exams, and inspections of approved aggregators that are affiliated with an IDI in order to minimize the duplication of examinations by federal regulators. If FMIC determines those reports and exams are insufficient, FMIC may require reports from and conduct on-site examinations of approved aggregators to the same extent as the Federal Reserve System may with regard to subsidiaries of bank holding companies.

FMIC must include in its capital and solvency standards requirements for approved aggregators that are not affiliated with an IDI. Approved aggregators with over $10 billion in assets will be subjected to FMIC-conducted stress tests. FMIC is authorized to act as conservator or receiver for an approved aggregator that is not affiliated with an IDI and fails to meet the capital standards established by FMIC.

Approved guarantors with over $10 billion in assets will be subject to FMIC-conducted stress tests. If an approved guarantor is critically undercapitalized, FMIC is authorized to serve as conservator or receiver for the guarantor.

This section also authorizes each Federal Home Loan Banks to form a subsidiary that may serve as an approved aggregator.

Sec.313. Approval of private mortgage insurers.
This section describes FMIC's authority with regard to private mortgage insurers (PMIs) who guarantee eligible mortgage loans collateralizing securities insured by FMIC. FMIC must issue standards for approved PMIs. If FMIC has substantial reason to believe an approved PMI has violated this Act or FMIC's regulations, or that the approved PMI poses a threat to the MIF, FMIC may examine or review an approved PMI. Once every two years, FMIC must conduct an on-site examination of any approved PMI that has not been examined by an appropriate state insurance regulator during that same time period.

FMIC will also have authority to take enforcement actions against approved PMIs for violations of the Act, and must notify the appropriate state insurance regulator after taking such action.

FMIC must recommend to the state insurance regulator resolution of a failing or critically undercapitalized approved PMI. If the state regulator does not act within 60 days after the Corporation provided its recommendation, the Corporation may act in place of the state regulator and place the approved PMI into the appropriate state liquidation process.

Sec.314. Approval of servicers.
This section authorizes FMIC to establish approval standards for servicers of eligible mortgage loans. FMIC's approval process must not disadvantage small servicers. FMIC must conduct an on-site examination of an approved servicer once every two years. In addition, FMIC may examine or review the status of any approved servicer at any time if FMIC has substantial reason to believe the approved servicer has engaged in a material violation or pattern of violations of this Act or FMIC's regulations. Each approved servicer must submit an annual

certification, in writing, attesting that the approved servicer is complying with FMIC's standards for approved servicers. An approved servicer that submits a false or misleading self-certification shall be subject to civil enforcement penalties used by the FDIC in its ongoing supervision of IDIs.

FMIC is authorized to require approved servicers failing to meet FMIC's standards to transfer their servicing rights for any loan or pool of loans, and may also suspend or revoke the approval status of an approved servicer. FMIC must also develop a process by which a holder of a first loss position in a FMIC-insured security may petition FMIC for a change of the approved servicer.

Servicers approved by Fannie Mae or Freddie Mac on the date before enactment of this Act are grandfathered in as approved servicers, but remain subject to the ongoing supervision and enforcement provisions for all approved servicers.

This section also raises the small servicer exemption threshold for both CFPB and FMIC servicer standards and requires FMIC to conduct a study on servicer compensation standards for non-performing single-family mortgage loans.

To reduce regulatory burden and minimize conflict, the Corporation must coordinate with federal and state regulators in setting the servicing standards.

Sec.315. Authority to establish and approve small lender mutuals.
This section authorizes FMIC to establish and capitalize a mutually-owned company to facilitate access to the secondary market by smaller lenders. The small lender mutual will provide a cash window for originators to sell individual loans or pools of loans, and shall be an approved aggregator if performing any of the functions under section 312.

Membership in the small lender mutual will be limited to IDIs with less than $500 billion in total assets, non-depository institutions with assets that exceed $2.5 million and that originate less than $100 billion in loans annually, Federal Home Loan Banks, and other small lenders that satisfy the membership requirements established by the mutual.

The small lender mutual will be owned and operated by its members. Governance is vested in a board of 14 directors chosen by membership, and the operation and management of the small lender mutual will be carried out by the board. Membership fees are set by the board, and must be equitably assessed and may not discriminate based on member size, loan volume, composition, or business line.

FHFA may transfer to the small lender mutual technology to help the mutual carry out its duties. FMIC will determine the amount of initial funding for the small lender mutual, which the small lender mutual will pay back.

Sec.316. Supervisory actions related to capital and solvency.
FMIC is required to establish capital classifications for approved guarantors, approved multifamily guarantors, and approved aggregators that are not insured depository institutions or their affiliates regarding the levels of capital to be maintained. These classifications are: well-capitalized, adequately capitalized, undercapitalized, significantly undercapitalized, and critically undercapitalized.

In certain situations enumerated in this section, FMIC may lower the capital classification of an approved guarantor, approved multifamily guarantor, or approved aggregator that is not an insured depository institution or its affiliate.

Approved guarantors, approved multifamily guarantors, and approved aggregators that are not IDIs or their affiliates that are classified at a level other than well capitalized are required to take varying degrees of action to improve their capital positions. These actions include: submitting and abiding by capital restoration plans; restricting asset growth; refraining from acquiring an interest in any entity or engaging in new activities without

FMIC permission; facilitating close monitoring of the entity by FMIC; limiting or reducing obligations, including off-balance sheet obligations; raising new capital; and improving management via new elections for boards of directors or dismissal of directors or executive officers.

If an approved guarantor, approved multifamily guarantor, or approved aggregator that is not an IDI is classified as critically undercapitalized, FMIC is required to place the entity into receivership.

Sec.317. Acquisitions and operations of covered entities.
This section requires FMIC to approve any change in control at an approved guarantor, approved multifamily guarantor, and an approved aggregator that is not affiliated with an IDI. This section also limits the ability of approved guarantors and approved multifamily guarantors from engaging in other business lines without FMIC's prior approval.

Subtitle C—Securitization Platform and Transparency in Market Operations

PART I—Securitization Platform

Sec.321. Establishment of the Securitization Platform.
This section requires FMIC to establish a Securitization Platform ("Platform") as a utility owned and operated for the benefit of its members that may be either a nonprofit corporation or another cooperative entity. This sections also provides FMIC the authority to regulate and supervise the Platform, requires FMIC to file incorporation papers within 1 year after the agency transfer date and gives FMIC discretion as to which State to file the incorporation documents.

The section also gives FMIC the ability to transfer initial funds to operate the Platform. It provides FHFA the ability to transfer or sell property to the Platform, including technology developed by the enterprises for the common securitization platform, provided that such transfers are sales made in a manner consistent with legal obligations to provide maximum returns to the senior preferred shareholders of the enterprises. FMIC is required to establish back-up capacity for the Platform. The section also permits FMIC to delegate the Platform responsibilities to other entities if the Platform is not operational by the System certification date.

Sec.322. Management of the Platform.
This section requires the FMIC Board of Directors to, within 180 days following the filing or acceptance of the Platform incorporation papers, appoint 5 initial Platform Directors to carry out the functions of the Platform, draft the initial bylaws, establish initial membership and fee requirements, and organize the election of the elected Platform Board from the Platform members. The initial Platform Board is given 1 year terms, however, FMIC is given the ability to extend the term for up to 3 additional years, after which time the elected Platform Board will be elected in a manner that reflects the diverse range of Platform members. The section creates a 9-member elected Platform Board, 1 of whom is independent, and all of whom shall have equal votes. The section also creates staggered terms of office for the Platform Board, and directs the appointment of a Chairperson of the Platform Board. The Platform Board may reorganize itself if the Platform Directors and FMIC determine that a different organizational structure will better achieve the purposes and obligations of the Act.

Sec.323. Membership in the Platform.
This section directs the Platform Directors to establish membership standards for approved entities, and permits the Platform Directors to approve as Platform members any mortgage aggregators, mortgage guarantors, mortgage originators, FHLBs, small lender mutual, or any other market participant approved by the Platform.

Sec.324. Fees.
This section permits the Platform Directors to asses and collect fees to operate the Platform, including an initial fee for membership and a uniform usage fee based on a member's usage of services as measured by the total principal balance of the loans or mortgage-backed securities issued by or through the Platform. The Platform Directors may establish tiered usage fees to reduce barriers to entry for the Platform for certain entities and to

establish differential usage fee structures for covered and noncovered securities. The section provides that the usage fees adopted by the Platform Directors will go into effect within 60 days unless such fee structures are disapproved by FMIC.

Sec.325. Purposes and obligations of the Platform.
This section provides the general purposes, powers, and functions of the Platform. The Platform powers include, among other authorities, the ability to: issue a standardized covered security insured by FMIC; develop standardized securitization documents for all covered securities; develop standardized documents for servicing and loss mitigations standards for all covered securities; develop any supplemental required contractual terms for contracts for noncovered securities issued by or through the Platform; develop optional standardized securitization documents tailored for noncovered securities issued by or through the Platform; verify that the eligible mortgage loans and securities collateralized by eligible mortgage loans purchased and received meet the requirements for covered securities under this Act; verify that the noneligible mortgage loans and securities not collateralized by eligible mortgage loans purchased and received by the Platform meet the requirements for noncovered securities under this Act; purchase or receive eligible and noneligible mortgage loans, both individual and pooled; issue all covered securities, noncovered securities from members of the Platform, and noncovered securities that are pooled from other approved sources; perform bond administration, data validation, and reporting; issue standardized To-Be-Announced securities; and issue securitizations for multifamily loans if the Platform Directors issue a determination that it would be desirable and practical for the Platform to be used to issue multifamily securitizations.

The section prohibits the Platform from: guaranteeing any mortgage loans or mortgage-backed securities; assuming or holding mortgage loan credit risk; operating a cash window; undertaking the issuance of any mortgage backed securities unless the first loss credit risk is already held by a private entity; owning or holding any mortgage loans or mortgage-backed securities for investment purposes; making or being a party to any representation and warranty agreement on any mortgage loans; and taking lender representation and warranty risk. The section also requires the Platform to develop the ability to issue, and issue standardized securities for single-family covered securities within 2 years following the election of the Platform Directors. The section also states that the Platform may develop an ability to issue standardized securities for single-family noncovered securities.

Sec.326. Uniform securitization agreements for covered securities and required contractual terms for noncovered securities.
This section mandates that the Platform develop standard uniform securitization agreements for all covered securities to be issued by or through the Platform. The section requires that the uniform standardization agreements detail obligations relating to, among other areas: pooling and servicing; loss mitigation; minimum representations and warranties; indemnification and remedies; requirements of indenture; duties of trustees; and uniform standards for actions or omissions to act that comprise a violation of reps and warranties under the agreements.

The section requires that all contracts for noncovered securities issued through the Platform include a set of contractual terms relating to the obligations of the parties to each contract that include terms regarding: pooling and servicing; loss mitigation procedures; representations and warranties; indemnification and remedies; and duties of trustees. The section permits the Platform Directors to also develop optional uniform securitization agreements for use by noncovered securities that are issued through the Platform.

Sec.327. Approval and standards for collateral risk managers.
Under Section 327, FMIC will develop standards for Collateral Risk Managers, a new party that can play a role in the management of mortgage-backed securities. Collateral Risk Managers will work with servicers and trustees to manage troubled mortgages and to comply with requirements in securitization documents, with the goal of providing better accountability and transparency for investors in mortgage-backed securities.

PART II—Transparency in Market Operations

Sec.331. Review of loan documents; disclosures.

This section requires FMIC, in consultation with the SEC, to issue a rule that would enable private market investors, in connection with the first loss position on a covered security, to have access to documents relating to the mortgages backing that covered security, as well as servicing reports. Market participants would also be required to disclose material information that a reasonable investor would need to make an informed investment decision, including access to documents and servicing reports related to the loans collateralizing the security.

Sec.332. Investor immunity.

This section protects market participants that have taken a first loss position in a covered security, or are otherwise invested in any covered security from liability in suits based on claims that the underwriting standards of loans collateralizing the covered securities, the representations and warranties of such loans, or the terms of any uniform securitization agreement under Section 326 were not satisfied.

Sec.333. National mortgage database.

This section transfers to FMIC the existing national mortgage database created by FHFA and the CFPB. FMIC and the CFPB must minimize conflicts and duplication with existing mortgage data reporting requirements, ensure the data is transparent and easily accessible by the public, and take privacy precautions.

Sec.334. Working group on electronic registration of mortgage loans.

Within 6 months of the creation of FMIC, the Corporation must establish a working group to study the necessity and feasibility of a national electronic mortgage registry for all single-family and multi-family mortgage loans, as well as state-based alternatives.

FMIC must consider the existing state and local real property recordation systems, including the impact on state revenues, and this section allows for the states to establish electronic mortgage registries. If the states fail to establish the registries within a specified period of time, FMIC will have the authority to establish a national electronic mortgage registry and will be required to coordinate with state and local agencies.

Sec.335. Multiple lender issues.

This section requires notification of the holder of the eligible mortgage before a subsequent lien on that property may become enforceable. This section only applies if the subsequent lien has a loan-to-value ratio of 80 percent or more.

Sec.336. Required harmonization of standards within eligible mortgage criteria.

This section mandates that FMIC coordinate with the Consumer Financial Protection Bureau (CFPB) to ensure that minimum standards governing eligible single-family mortgage loans are, as much as possible, similar to rules established by the CFPB regarding the presumption of the ability to repay. Any modifications to the standards must still match the standards of an eligible mortgage loan and must not negatively impact the MIF.

FMIC is also mandated to submit an annual report that details any changes, as well as the economic analysis to support those changes, to the minimum standards and highlight the differences between the new minimum standards and the ability to repay rules previously established by the CFPB.

TITLE IV—FHFA AND FMIC TRANSITION

Sec.401. Definitions.

Sec.402. FHFA transition.

Six months following enactment, FHFA, including its current functions, powers, and duties, is transferred as an independent office within FMIC. FHFA will continue to be responsible for supervision and regulation of the enterprises and the Federal Home Loan Banks. The FHFA Director at the time of the transfer continues in that role. Until a FMIC Chairperson is nominated by the President and confirmed by the Senate, the FHFA Director will serve as the Transition Chair of FMIC.

Sec.403. Transfer and rights of employees of the FHFA.
Upon the transfer of FHFA to an independent office within FMIC, all existing FHFA employees in good standing are transferred to FMIC. After a FMIC Chairperson is nominated by the President and confirmed by the Senate, in consultation with the FHFA Director, the FMIC Chairperson may reassign these employees elsewhere in FMIC as necessary.

Sec.404. Transition Committee.
Upon enactment, a Transition Committee is formed to develop a comprehensive plan for the transition to the new housing finance system, as well as to advise the FMIC. The Transition Committee is initially composed of the FHFA Director, the FDIC Chairman, and the Comptroller of the Currency. Upon confirmation, the FMIC Chairperson and any members of the FMIC Board of Directors are also members of the Transition Committee. The FHFA Director is the Chairperson of the Transition Committee until a FMIC Chairperson is confirmed, at which point he or she becomes Chairperson of the Transition Committee. The Transition Committee is dissolved once both a FMIC Chairperson has been confirmed and the transition plan has been approved and submitted to Congress.

Sec.405. Transition assessments.
From enactment until the date on which the enterprises are prohibited from engaging in new business, the enterprises will be charged annual assessments. Before FMIC is created, FHFA shall use the assessment funds only to capitalize the MIF.

After it is created, FMIC may use these assessments to capitalize the MIF and for its administrative costs, as well as to establish the Securitization Platform, the Small Lender Mutual, and multifamily guarantors.

Sec.406. Transfer of powers and duties on the system certification date; continuation and coordination of certain actions.
On the date on which the enterprises are prohibited from engaging in new business, FHFA will cease to exist as an independent office within FMIC, and all FHFA functions, powers, and duties will be vested in FMIC.

Sec.407. Technical and conforming amendments relating to abolishment of FHFA.
Relevant references to FHFA and the FHFA Director in Federal law are changed to reference FMIC and the FMIC Chairperson upon the system certification date.

Sec.408. Repeal of mandatory housing goals.
On enactment, the single-family and multifamily housing goals with respect to mortgage purchases of the enterprises are repealed. Covered entities must comply with the Fair Housing Act and the Equal Credit Opportunity Act.

TITLE V—IMPROVING TRANSPARENCY, ACCOUNTABILITY, AND EFFICACY WITHIN AFFORDABLE HOUSING

Sec.501. Affordable housing allocations.
This section establishes an initial and incentive-based fee structure to support the Housing Trust Fund, the Capital Magnet Fund, and the newly-created Market Access Fund, and authorizes FMIC to collect these fees. This section also describes how these fees shall be allocated to the funds.

To provide market-based incentives to encourage approved guarantors, approved multifamily guarantors, and approved aggregators to serve underserved market segments, FMIC may charge an approved guarantor, approved multifamily guarantor, and approved aggregator a different fee based on: the performance of that entity in serving underserved areas relative to its approved peers, the performance of that entity relative to primary market originations in underserved areas, and the degree to which each market segment is underserved. The incentive fee structure authorized by this section must be established by FMIC regulation, and must average 10 basis points across all outstanding covered securities.

FMIC may also use funds from the Market Access Fund to provide additional incentives to serve underserved market segments.

Sec.502. Housing Trust Fund.
This section makes changes to the Housing Trust Fund to require a set-aside for federally-recognized tribes, which would be administered by HUD through a competitive grant process aimed at meeting the housing challenges facing Indian Country. This section also increases the minimum allocation a state will receive under the Housing Trust Fund.

Sec.503. Capital Magnet Fund.
This section clarifies that the Capital Magnet Fund must consider tribal housing needs.

Sec.504. Market Access Fund.
This section creates a new Market Access Fund to support innovation in responsible lending products, education, underwriting, and servicing that will help address the homeownership and rental housing needs of underserved markets and populations. FMIC's Office of Consumer and Market Access will be responsible for maintaining and administering the Market Access Fund.

Sec.505. Additional taxpayer protections.
This section clarifies that grant money received from the Housing Trust Fund, Capital Magnet Fund, or Market Access Fund cannot be used for certain political activities, but also clarifies that this prohibition does not apply to HUD-approved housing counseling services, financial literacy education, or construction-related expenses.

TITLE VI—TRANSITION AND TERMINATION OF FANNIE MAE AND FREDDIE MAC

Sec.601. Minimum housing finance system criteria to be met prior to system certification date.
The date on which the enterprises are prohibited from engaging in new business is defined as the date on which 1) the FMIC Board of Directors certifies that FMIC is able to undertake all of its duties; and 2) certain minimum housing finance system criteria have been satisfied. These minimum criteria are:

- The Department of the Treasury has advised the Board of Directors that laws and contracts are in place to provide for compensation to the Department for its support of the enterprises and the housing finance system. The Securitization Platform is operational and able to issue standardized securities for the single-family covered securities market.
- At least one small lender mutual is operational and able to undertake its duties.
- A sufficient number of approved guarantors, approved aggregators, approved private mortgage insurers, and approved servicers exist to assume first loss positions and generate a substantial volume of secondary mortgage market activity.
- Multiple approved multifamily guarantors exist and provide sufficient multifamily financing in primary, secondary, and tertiary geographical markets.

FMIC may begin providing insurance on single-family or multifamily covered securities prior to the satisfaction of all minimum criteria.

The prohibition on the enterprises engaging in new business must be certified by the FMIC Board of Directors within 5 years of enactment. If the Board of Directors is unable to make this certification within 5 years, it may extend this deadline several times, through extensions with heightened approval standards.

Sec.602. Transition of the housing finance system.
The Transition Committee must develop a comprehensive transition plan within 12 months of enactment to facilitate an orderly transition to the new housing finance system. Within 12 months of submission of the transition plan, and annually thereafter, FMIC must update the transition plan for Congress.
The transition plan must include:

- Estimated timeframes by which to achieve the minimum housing finance system criteria within 5 years of enactment.
- Detailed actions that FMIC will take to achieve the minimum housing finance system criteria.
- Estimated timeframes and detailed actions that FMIC and FHFA will take to provide an orderly wind down of the enterprises.
- Detailed plans for utilizing any intellectual property, technology, infrastructure, or process of the enterprises.
- Descriptions of and updates on the ongoing operations of FMIC, including FHFA.
- Estimated timeframes and detailed plans for establishing a multifamily covered securities market.
- Estimated timeframes and detailed plans for establishing a standardized security issued through the Securitization Platform for the single-family covered securities market.
- Detailed plans for increasing the level of credit risk-sharing in the secondary mortgage market.

FMIC must consider the impact of various transition options with respect to housing prices and affordability, the effectiveness of consumer protections in the housing market, the volume and characteristics of mortgage loan originations, the condition of the rental housing market, small lender participation in the secondary mortgage market, access to credit in rural and underserved communities, competition among market participants, the condition of the multifamily housing market, innovation among secondary market participants, taxpayer repayment, and private capital in the secondary mortgage market.

Sec.603. Resolution authority; technical amendments.
On the system certification date, FMIC assumes FHFA's resolution authority.

Sec.604. Wind down.
The FHFA Director, in consultation with FMIC, may take actions and prescribe regulations and procedures as are necessary to wind down the operations of the enterprises in an orderly manner. However, the sale, transfer, exchange, or other disposition of any asset subject to the wind down of the enterprises is prohibited if FMIC determines that such sale, transfer, exchange, or disposition would materially interfere with its ability to carry out the requirements of this Act. Six months following enactment, FMIC may take actions and prescribe regulations and procedures as are necessary to wind down the operations of the enterprises in an orderly manner.

Within nine months of enactment, each enterprise must develop a resolution plan in order to facilitate an orderly transition to the new housing finance system. After reviewing these resolution plans, FMIC is required to conduct a valuation study of each enterprise's business segments that may be sold for value.

Upon the system certification date, Fannie Mae and Freddie Mac would be prohibited from conducting new business.

The prohibition on engaging in new business does not affect the rights and obligations of holders of outstanding debt obligations of the enterprises or mortgage-backed securities guaranteed by the enterprises. The full faith and credit of the United States is pledged to the payment of all amounts required under these debt obligations or mortgage-backed securities.

Provisions of the Senior Preferred Stock Purchase Agreement relating to dividend payment dates, periods, rates, and amounts shall not be amended, restated, or otherwise changed to reduce the rate or amount of dividends in effect pursuant to such Agreement as of the Third Amendment to such Agreement dated August 17, 2012, except that any amendment to such Agreement to facilitate the sale of assets of the enterprises to facilitate compliance with the resolution plan requirements is permitted, and will remain in effect until the guarantee obligations of the enterprises are fully extinguished.

The charters of the enterprises are revoked upon the extinguishing of all guarantee obligations of the enterprises, with the exception of the provisions in the Fannie Mae charter that relate to Ginnie Mae.
Beginning six months after enactment, FMIC may, upon application and in exchange for a fee, provide insurance on outstanding mortgage-backed securities issued by the enterprises. FMIC may also facilitate the exchange of mortgage-backed securities issued by either enterprise for covered securities, the exchange of mortgage-backed securities issued by one enterprise for those of the other enterprise, issuance of mortgage-backed securities by both enterprises through a single issuer, or issuance of real estate mortgage investment conduit securities consisting of mortgage-backed securities issued by the enterprises. Within six months of enactment, the FHFA Director is required to submit a study considering the feasibility of these actions to FMIC, the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Financial Services.

The FHFA Director must establish and execute plans to manage enterprise assets toward the liquidation of liabilities and provide for an equitable division, distribution, and liquidation of the assets and liabilities of an enterprise, including any infrastructure, property, including intellectual property, platforms, or any other thing or object of value. These plans may include the establishment of:

- a holding corporation to wind down the enterprises;
- one or more trusts to transfer outstanding enterprise debt obligations or outstanding mortgages held to collateralize mortgage-backed securities guaranteed by the enterprises; or
- one or more subsidiaries or joint ventures with private entities to facilitate an orderly wind down of the enterprises.

Any holding company, trust, subsidiary, or joint venture sold as a going concern may be utilized to facilitate the formation of a small lender mutual, an approved guarantor, an approved multifamily guarantor, an approved aggregator, or the Securitization Platform.

The wind down of each enterprise must be managed by FHFA to obtain resolution that maximizes the return for taxpayers, so long as this is consistent with the other goals of an orderly transition to a new housing finance system.

Sec.605. Portfolio reduction.
Each enterprise is not permitted to own single-family mortgage loan assets in excess of 85 percent of the aggregate amount of the single-family mortgage loan assets that the enterprise was permitted to own as of December 31 of the immediately preceding calendar year. By the date on which the enterprises are prohibited from engaging in new business, FMIC must establish an allowable amount of enterprise-owned single-family mortgage loan assets to facilitate the orderly wind down of the enterprises and appropriate loss mitigation on any legacy guarantees of the enterprises.

Sec.606. Oversight of transition of the housing finance system.
Beginning six months after enactment through the system certification date, the FMIC Chairperson must testify annually before the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services on the progress made in carrying out the transition.

Beginning six months after enactment through the system certification date, the FMIC Inspector General must submit an annual report on the status of the transition and testify on this report annually to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services.

Within 18 months of the date on which the enterprises are prohibited from engaging in new business, the GAO must conduct a study and submit a report which reviews all property of the enterprises that has been sold, transferred, or licensed for value, the number and market share of each type of approved entity, and the amount of any taxpayer repayment to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services.

Sec.607. Authority to establish provisional standards.
FMIC may establish provisional standards for the approval of guarantors, multifamily guarantors, aggregators, private mortgage insurers, and servicers to ensure the sufficient participation of financially sound entities in the housing finance system.

These provisional standards may be established during the transition to the new housing finance system and during periods when FMIC's unusual and exigent powers are exercised. When provisional standards are in effect, FMIC maintains all oversight and enforcement authorities with regard to approved entities.

The 10 percent capital requirement for approved guarantors takes effect 10 years after the date on which the enterprises are prohibited from engaging in new business. The phase-in of this capital standard for approved guarantors will occur in equal annual increments.

Sec.608. Initial fund level for the Mortgage Insurance Fund.
FMIC must endeavor to ensure that by the system certification date the MIF attains a reserve ratio of 0.75 percent of the sum of the outstanding principal balance that FMIC expects to be insured five years after the system certification date. This initial funding of the MIF will be provided by assessments on the enterprises.

Sec.609. GAO report on full privatization of secondary mortgage market.
Within 8 years of enactment, the GAO is required to submit a report to Congress on the feasibility of transitioning to and creating a fully privatized secondary mortgage market, including recommendations, and conduct an assessment of the cost of mortgage credit and the impact on the economy if the secondary mortgage market is fully privatized.

Within 6 months of the date on which the GAO report is submitted, FMIC is required to submit to Congress a description of the legislative, administrative, and regulatory actions necessary to implement the recommendations of the report.

TITLE VII—MULTIFAMILY

Sec.701. Establishment of multifamily subsidiaries.
To facilitate the transition to the new multifamily housing finance system, this section requires the establishment of multifamily subsidiaries within each of the enterprises. Not later than 180 days after enactment, the enterprises must develop a plan to establish within each company, a multifamily subsidiary. The multifamily subsidiaries will be established not later than 1 year after enactment. The Delegated Underwriting and Servicing Lender Program (DUS) as well as the Capital Market Execution Program Series K Structured 2Pass-Throught Certificates (Series K) will continue to operate, as well as any other programs that support the enterprises' provision of liquidity to the multifamily housing market.

Sec.702. Disposition of multifamily businesses.
This section provides that the Corporation, on or before the System Certification date, may manage the sale, transfer, or disposition for value of property of the multifamily businesses of the GSEs. FHFA must manage any disposition in a manner consistent with establishment of a well-functioning, competitive multifamily market.

Sec.703. Approval and supervision of multifamily guarantors.
This section outlines the standards, application and approval process for multifamily guarantors, as well as oversight and enforcement provisions. In addition to providing guarantees of covered multifamily securities, multifamily guarantors will also have the ability to issue covered multifamily securities. Multifamily guarantors will be evaluated for approval on a number of criteria, including financial condition, character and fitness, capacity to manage counterparties and take the first-loss position or transfer credit risk, and capacity to meet the

requirements of the Act. Multifamily guarantors will be able to share credit risk, including by selling a first loss position. The DUS and Series K products will be approved credit risk sharing mechanisms. Approved multifamily guarantors must maintain approval status and are required to hold 10 percent capital.

Sec.704. Multifamily housing requirement.

Each enterprise and approved multifamily guarantor must ensure that 60 percent of the rental housing units financed must be affordable to low-income families (families with incomes at or below 80 percent of Area Median Income) at origination. The Corporation has the authority to suspend or adjust the requirement if economic or market conditions require such action. Any such suspension or adjustment must be published and reviewed not less than annually.

Sec.705. Establishment of small multifamily property program.

This section mandates that the Corporation administer a pilot program through the Office of Multifamily Housing to test and assess methods or products designed to increase secondary mortgage market access for multifamily properties with 50 or fewer units. Funding for such a program may be allocated from the Market Access Fund. The results of the pilot program shall be made publicly available.

Sec.706. Multifamily housing study.

The Corporation shall conduct a study regarding the capabilities of the Federal Home Loan Banks to expand their Acquired Member Assets (“AMA”) programs to eligible multifamily mortgage loans.

Sec.707. Multifamily platform study.

This section outlines a study regarding the capacity and need for a common securitization platform in the multifamily housing finance market. The study should take place no later than 18 months after the system certification date.

TITLE VIII—GENERAL PROVISIONS

Sec.801.Rule of construction.

This section clarifies that this Act does not prohibit re-securitizations of portions of FMIC-backed securities.

Sec.802. Severability.

This section ensures that the rest of the Act will not be affected if one portion of this Act is invalidated.

Sec.803. Transfer notification under TILA.

This section amends the Truth in Lending Act’s (TILA) requirement to notify borrowers when the owner of their mortgage loan changes to include a requirement to notify borrowers when the servicer of their mortgage loan changes as well.

TILA is also amended so that a borrower may not be charged a late fee if the borrower sent his or her monthly mortgage payment before the due date but to the old servicer of his or her mortgage loan, so long as the payment was made within 60 days of the effective date for the transfer of the servicing rights for the borrower’s mortgage.

Sec.804. Determination of budgetary effects.

This section specifies the budgetary treatment of this Act.

NAR Analysis of Johnson-Crapo Housing Finance Reform Legislation:
"Housing Finance Reform and Taxpayer Protection Act of 2014"

Section 2 – Definitions
The legislation would require borrowers to have at least 5% down payment. First-time homebuyers would be allowed to purchase with at least 3.5% minimum down payment.

NAR: It has been NAR's belief that the down payment amount should not be set in statutory language. The amount of the down payment by itself is not a predictor that a homeowner may run into trouble. Research has demonstrated that many factors contribute to loan performance. Having a hard and fast number for how much skin-in-the-game an individual needs to have, could preclude creditworthy borrowers who have an issue saving the required amount, from owning a home they could otherwise afford. However it should be noted that this legislation allows for a lower down payment amount of 3.5% for first time homebuyers, which is the only housing finance reform legislation to do so to date.

Additionally, the legislation gives authority to the FMIC to determine the definition of a first-time homebuyer. We believe this section should be amended to specify the definition of a first-time homebuyer that is identical to the definition used by the government when it administered the First-Time Homebuyer Tax Credit. The First-Time Homebuyer Tax Credit defined a first-time homebuyer as individuals/families that have not owned a home in 3 years.

TITLE I – ELIMINATION OF FANNIE MAE AND FREDDIE MAC

Sections 101 & 604 (Title VI) – Wind down; Elimination of Fannie Mae and Freddie Mac
These sections require the FMIC to wind down and repeal the charters of Fannie Mae and Freddie Mac. This process would take place over 5 years, at the end of which FMIC would be required to have met several benchmarks, including setting up a new and functioning securitization platform as well as approving a sufficient number of guarantors, aggregators, and private mortgage insurers. The legislation provides for additional time to meet the criteria under certain exceptional circumstances, though extensions would be subject to heightened approval standards.

NAR: The proposal appears to have a number of safeguards in place to ensure a smooth transition to a new secondary mortgage market system. Should a 5 year transition period not be sufficient, as NAR has suggested, the legislation allows for additional extensions, which should enable a smooth transition.

TITLE II – FEDERAL MORTGAGE INSURANCE CORPORATION

Sections 202 – 210
This section establishes the Federal Mortgage Insurance Corporation (FMIC), which is charged with overseeing the mortgage finance market while also being tasked with insuring "covered" or approved mortgage-backed securities. The FMIC is also required to facilitate the broad availability of mortgage loan credit and secondary market financing at all times.

Management
FMIC will be managed by an independent bipartisan board of directors. 5 members will be appointed by the President and confirmed by the Senate. The President will also appoint a Chairperson and Vice Chairperson. No more than 3 board members may be from the same political party.

Advisory Committee
A 9 member advisory committee will be created to provide a mechanism for stakeholders to provide input to, and consult with, the Board of Directors and the Office of Consumer and Market Access on developments in

mortgage markets and their interaction with the ongoing mission of the FMIC. The Chairperson of FMIC will appoint members from both business and consumer fields.

Offices
FMIC will be required to create the following entities: Office of Underwriting, Office of Securitization, Office of Federal Home Loan Bank Supervision, Office of Multifamily Housing, and Office of Consumer and Market Access.

NAR: It appears the structure and mission of the FMIC will help to ensure that mortgage capital continues to be affordable and available to creditworthy borrowers. However, the FMIC does have significant authority under the plan to examine participants in the new system. Many of these companies would be large U.S. banks that are already overseen by other regulators, but smaller banks could face FMIC inspections as well. The idea of new examiner teams at banks/companies would add another regulatory layer, which could result in higher mortgage costs for consumers.

Additionally, we have heard concerns that the FMIC may consolidate the secondary mortgage market into large financial institutions. Specifically, the legislation allows for a single firm to write mortgages, package these securities, and insure the bond that would receive the government guarantee, all while pocketing profits – and risks – from each role.

TITLE III – DUTIES AND RESPONSIBILITES OF THE FMIC

Sections 302 and 305 – Standard for credit risk-sharing mechanisms

This section requires a 10% first-loss position for private firms to participate in the new securitization platform. However, the bill leaves open the possibility for the 10% to be satisfied through a bond guarantor structure or through other types of capital markets executions, which would have to be approved by the FMIC.

The bill also states that if the FMIC, Federal Reserve and Treasury, in consultation with the Department of Housing and Urban Development (HUD), determine that unusual and exigent circumstances threaten mortgage credit availability, the FMIC may provide insurance on covered securities that do not meet the standard credit risk sharing requirements including those for first-loss position of private market holders. The FMIC may exercise these authorities for an initial 6 month period and up to two additional 9 month periods within any given 3-year period.

NAR: While this flexibility may be crucial for helping attract enough private capital into the market to support the new system, the investor first-loss position costs will likely be passed onto consumers, which could raise the cost of mortgages.

Section 303 – Insurance; Mortgage Insurance Fund

This section requires the FMIC to create a Mortgage Insurance Fund (MIF), which will provide funds for any claims on FMIC-backed securities. MIF would be initially capitalized through assessments charged to Fannie Mae and Freddie Mac, but later the cost would be shifted to private market participants once Fannie Mae and Freddie Mac are wound down. MIF's reserves would start out at 1.25% of the unpaid principle balance on covered securities, but that ratio would rise to 2.5% within 10 years.

NAR: The MIF's capital requirements appear to be sufficient to guard against any losses within the new secondary mortgage market. However, we believe more information is needed regarding what private market participants will pay to keep MIF well-capitalized and what the impact would be on mortgage costs for borrowers when combined with the 10% capital fee.

Section 304 – Loan Limits; Housing Price Index
This section mirrors loan limit language set by HERA, which allows for limits to rise as high as $625,500 in high cost markets. However, the legislation requires the FMIC to annually adjust these limits based on changes to housing prices in different geographic areas. Additionally, the bill modifies the current Housing Price Index to also take into consideration the averages based on different geographic regions and an average for houses whose mortgage collateralized single-family covered securities. Finally, the legislation specifies that the FMIC may not reduce the loan limits.

NAR: We support all of the provisions in this section; however, more information is needed on how the modifications to the Housing Price Index will impact loan limits.

Section 311 – Approval and Supervision of Guarantors
Guarantors will be required to hold 10% capital to protect against losses. This 10% capital requirement will be phased in over 10 years after the date on which the GSEs are prohibited from engaging in new business. Also, guarantors with more than $10 billion in assets will be subject to stress testing.

NAR: We have concerns with language in this section requiring bond guarantors to maintain at least 10% of the unpaid principle balance of outstanding MBS for which the bond guarantor is providing insurance. This section should be adjusted for bond guarantors that insure only a portion of the MBS. For example, if a guarantor insures 10% of the security, the guarantor should only maintain capital to cover that 10% and not the remainder of the outstanding MBS balance. Otherwise, the bond guarantor market will be dominated by a few large financial institutions, which will drive up lending costs for consumers.

Section 313 – Approval of supervision of aggregators
This section authorizes Federal Home Loan Banks to form a subsidiary that can act as an approved loan aggregator. Approved aggregators with assets over $10 billion will be subject to stress tests.

NAR: We support the authorization of the Federal Home Loan Banks to participate as aggregators. These institutions have a proven aggregation track record and will provide the new housing finance system with more competition.

Section 315 – Authority to establish and approve small lender mutual
This section calls for the creation of a member-owned small-lender cooperative. Membership will be limited to insured depository institutions with less than $500 billion in total assets, non-depository institutions with assets that exceed $2.5 million that originate $100 billion in loans annually, Federal Home Loan Banks, as well as other small lenders that satisfy the membership requirements established by the mutual.

NAR: Ensuring that local, small community lenders and credit unions have access to mortgage capital is a priority of REALTORS®. Many consumers utilize these financial institutions to originate and refinance mortgages, specifically, those in less urban areas. Moreover, the existence of these smaller institutions ensures competitive pricing that positively impacts the consumer.

Under this legislation, we believe small lenders will have multiple access points to the secondary market, including the option to sell individual loans through a mutual. This would provide small lenders direct access to the secondary mortgage market outside of direct competition with larger competitors. The mutual will provide members with a cash window in which to sell individual eligible mortgages, pooling, aggregation and securitization services; and assistance in retaining servicing rights.

Sections 321 – 327: Establishment of the Securitization Platform
This section requires a new securitization platform for the secondary mortgage market that would establish a universal standard for the types of securities guaranteed by the FMIC, with an emphasis on assets made up of 30-year, fixed rate mortgages. The new platform would operate as a cooperative owned by its members and

regulated by the FMIC. Initially, the FMIC will create a 5 person board made up of platform members. After initial terms of board members have expired, subsequent boards will be comprised of 9 elected directors representing members of the platform. At least one director must represent the interest of small mortgage lenders, and another will be an independent director.

This section also permits Platform Directors to assess and collect fees to operate the Platform, including an initial fee for membership and a uniform usage fee based on a member's usage of services as measured by the total principal balance of the loans or MBS issued by or through the Platform. The Platform is also required to develop the ability to issue standardized securities for single-family covered securities within 2 years following the election of the Platform Directors.

NAR: The new Platform appears to be capable of supporting a robust secondary mortgage market. However, we would like more information on the specific fees incurred by participants who will use the Platform. These fees ultimately impact the pricing of mortgages for consumers. Additionally, more information is needed regarding the costs of various fees imposed by the FMIC on market participants and how these fees will compare with the current guarantee fees charged by both Fannie Mae and Freddie Mac.

Section 335 – Multiple lender issues

This section requires that the holder of an eligible mortgage must be notified before a subsequent lien can be enforced if the combined LTV will be greater than 80%.

NAR: Among other things, we have concerns that this provision will create significant problems relating to the ability of homeowners in accessing their home equity.

TITLES IV & V – FHFA AND FMIC TRANSITION; IMPROVING TRANSPARENCY, ACCOUNTABILITY, AND EFFICACY WITHIN AFFORDABLE HOUSING

Section 402 – 407: FHFA Transition

Six months after enactment, the legislation would transfer power to the FMIC from the Federal Housing Finance Agency (FHFA), which currently oversees Fannie Mae and Freddie Mac. At that point the FHFA would become an independent office within the FMIC.

NAR: More information is needed regarding the role FHFA will play within the housing market.

Sections 408 and 501 – 505: Repeal of mandatory housing goals; Affordable housing allocations

Upon enactment, affordable housing goals currently required by the GSEs would be abolished. While the legislation would repeal past affordable housing goals, it would create a new Office of Consumer and Market Access (OCMA) within the FMIC. The OCMA would administer a new "Market Access Fund" while monitoring the needs of underserved markets and consumers.

Loan aggregators and guarantors would be required to file annual assessments, attesting to their efforts to close any gaps. Also, while being blocked from "influencing" mortgage loans purchased or guaranteed by eligible entities, in order to fulfill its own obligation to ensure equitable access to financing, the FMIC would be given authority to charge companies with a limited to zero presence in underserved markets and as much as a 10 basis point higher guarantee fee. Additionally, the incentive-based fee structure would also support the Housing Trust Fund and Capital Magnet Fund.

Moreover, the legislation amends the Housing Trust Fund to require a set-aside for federally-recognized tribes, which will be administered through a grant process by HUD. It also establishes a new requirement that the Capital Magnet Fund consider tribal housing needs.

NAR: NAR supported the formation of the Housing Trust Fund when it was passed as part of the HERA Act. Some believe the new incentive fee structure for 3 different affordable housing funds, including the Housing Trust Fund, will be more than sufficient to ensure underserved communities have access to affordable housing. Conversely, others contend that money from a 10 basis point MBS fee, feeding the HERA-created Housing Trust Fund and Capital Magnet Fund, as well as the new Market Access Fund should not be a replacement, but an addition to the former incentives and responsibilities, no matter what form those responsibilities are reconstituted.

While we are supportive of the 3 affordable housing funds in the legislation, some critics are concerned that the incentive based fees would not adequately fulfilled the needs of underserved areas.

TITLE VI – TRANSITION AND TERMINATION OF FANNIE MAE AND FREDDIE MAC

Section 601 – Minimum housing finance system criteria to be met prior to system certification date

Fannie Mae and Freddie Mac are prohibited from engaging in new business when the FMIC Board of Directors certifies that FMIC is able to undertake all of its duties as well as meet the following criteria:

- The Department of Treasury has advised the Board that laws and contracts are in place to provide for compensation to the Department
- Securitization Platform is functional
- At least one small lender mutual is operational
- A sufficient number of approved guarantors, aggregators, private mortgage insurers, and servicers exist to assume first loss position and generate a substantial volume of secondary mortgage market activity
- Multiple approved multifamily guarantors exist and provide sufficient multifamily financing

The prohibition on the GSEs engaging in new business must be certified by the FMIC Board within 5 years of enactment. If the Board is unable to make this certification within 5 years, it may extend the deadline several times, through extensions with heightened approval standards.

NAR: There appears to be an adequate number of safeguards in place to ensure for a smooth transition. However, it is unclear what number regulators will accept as a "sufficient" number of approved market participants.

Section 602 – Transition of housing finance system

The Transition Committee must develop a comprehensive transition plan within 12 months of enactment to facilitate an orderly transition to the new housing finance system. Within 12 months of submission of the transition plan, and annually thereafter, the FMIC must update the transition plan for Congress.

The FMIC must consider the impact of various transition options with respect to housing prices and affordability, the effectiveness of consumer protections in the housing market, the volume and characteristics of mortgage loan originations, the condition of the rental housing market, small lender participation in the secondary mortgage market, access to credit in rural and underserved communities, competition among market participants, the condition of the multifamily housing market, innovation among secondary market participants, taxpayer repayment, and private capital in the secondary mortgage market.

NAR: We believe these provisions are necessary to ensure for a smooth transition.

Section 605 – GSE Portfolio reduction

Each enterprise is not permitted to own single-family mortgage loan assets in excess of 85% of the aggregate amount of the single-family mortgage loan assets that the enterprise was permitted to own as of December 31 of the immediately preceding calendar year. By the date on which the enterprises are prohibited from engaging in new business, the FMIC must establish an allowable amount of enterprise-owned single-family mortgage loan assets to facilitate the orderly wind down of the enterprises and appropriate loss mitigation on any legacy guarantees of the enterprises.

NAR: Although the GSE's portfolios will be eradicated, we believe the new securitization platform will provide specialty products, such as manufactured housing with sufficient liquidity.

Section 609 – GAO report on full privatization of secondary mortgage market

Within 8 years of enactment, the GAO is required to submit a report to Congress on the feasibility of transitioning to and creating a fully privatized secondary mortgage market, including recommendations, and conduct an assessment of the cost of mortgage credit and the impact on the economy if the secondary mortgage market is fully privatized.

Within 6 months of the date on which the GAO report is submitted, the FMIC is required to submit to Congress a description of the legislative, administrative, and regulatory actions necessary to implement the recommendations of the report.

NAR: We believe it is imperative that Congress receive timely information regarding the health of the residential and multifamily mortgage markets, especially during the transition into a new secondary market. We oppose a wind down of the FMIC without a government guarantee, which may result in higher costs and reduced access for mortgage products. Therefore, we recommend altering the GAO report to Congress to focus on the availability and affordability of mortgage capital for consumers across the country.

TITLE VII - MULTIFAMILY

Sections 701 – 707: Multifamily

The FMIC will approve multifamily guarantors to both guarantee the first-loss position on multifamily securities and issue securities for which they provide guarantees. The legislation provides that the successful mechanisms currently offered by Fannie Mae and Freddie Mac, the DUS and Series K products, can be used by approved multifamily guarantors in the new system. Approved multifamily guarantors will have 10% capital requirements standing before the public guarantee.

Each enterprise and approved multifamily guarantor must ensure that 60% of the rental housing units financed are affordable to low-income families (families with incomes at or below 80% of Area Median Income) at origination. The FMIC may suspend or adjust this requirement in the event of economic distress or adverse market conditions.

Smaller properties – those with less than 50 units – serve families in urban, suburban, and particularly rural areas. As important of a source of housing as these properties are, they often face barriers accessing the secondary market. The bipartisan draft establishes a pilot program in the FMIC's Office of Multifamily Housing to test and assess methods or products designed to increase secondary mortgage market access for small multifamily properties.

Recognizing the unique nature of the multifamily housing market, the draft creates an Office of Multifamily Housing within the FMIC to provide special focus on multifamily housing.

NAR: We believe the proposal allows the FMIC to continue financing multifamily loans for properties in much the same way Fannie Mae and Freddie Mac operate now.

TITLE VIII – GENERAL PROVISIONS

Section 803 – Transfer notification under TILA.
This section amends the Truth in Lending Act's (TILA) requirement to notify borrowers when the owner of their mortgage loan changes to also include a requirement to notify borrowers when the servicer of their mortgage loan changes.

TILA is also amended so that a borrower may not be charged a late fee if the borrower sent his or her monthly mortgage payment before the due date to the old servicer of his or her mortgage loan, so long as the payment was made within 60 days of the effective date for the transfer of the servicing rights for the borrower's mortgage.

NAR: We believe this provision provides necessary protections for all borrowers.

The Washington Post

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Student debt may hurt housing recovery by hampering first-time buyers

By Dina ElBoghdady, Published: February 17

The growing student loan burden carried by millions of Americans threatens to undermine the housing recovery's momentum by discouraging, or even blocking, a generation of potential buyers from purchasing their first homes.

Recent improvements in the housing market have been fueled largely by investors who snapped up homes in the past few years. But that demand is waning as prices climb and mortgage rates rise. An analysis by the Mortgage Bankers Association found that loan applications for home purchases have slipped nearly 20 percent in the past four months compared with the same period a year earlier.

First-time buyers, the bedrock of the housing market, are not stepping up to fill the void. They have accounted for nearly a third of home purchases over the past year, well below the historical norm, industry figures show. The trend has alarmed some housing experts, who suspect that student loan debt is partly to blame. That debt has tripled from a decade earlier, to more than $1 trillion, while wages for young college graduates have dropped.

The fear is that many young adults can no longer save for a down payment or qualify for a mortgage, impeding the housing market and the overall economy, which relies heavily on the housing sector for growth, regulators and mortgage industry experts said.

"This is a huge issue for us," said David H. Stevens, chief executive of the Mortgage Bankers Association. "Student debt trumps all other consumer debt. It's going to have an extraordinary dampening effect on young peoples' ability to borrow for a home, and that's going to impact the housing market and the economy at large."

Stephanie McCloskey, 26, said she feels the pinch. Two years out of college, McCloskey was confident that she could take out a mortgage and buy a townhouse in Gaithersburg, Rockville or maybe Frederick — until she met with a lender last month.

That's when she realized she would not qualify for a mortgage large enough to pay for a home in the Maryland cities she was eyeing. According to her lender, the $500 she ponies up each month to repay her $30,000 student loan eats up too much of her income.

"I didn't know anything about buying a house when I was taking out a student loan, so it's almost like I am being blindsided by a decision I had to make years ago," said McCloskey, an administrative assistant.

New federal rules

The lending climate has become less forgiving for those carrying student debt, and that's unlikely to change anytime soon.

Federal rules that took effect last month grant mortgage lenders broad legal protections as long as they do not approve loans for prospective buyers whose total monthly debt exceeds 43 percent of their monthly gross income. The overarching goal is to protect borrowers against lender abuses.

But the rules could also make it difficult for some buyers with student loans to obtain a mortgage. Take someone seeking a $626,000 loan with a 4.5 percent interest rate to buy an $800,000 house.

If that person earned $125,000 a year and had a $450-a-month car payment, he or she would fall within the limit, said Phil Denfeld, a vice president at First Heritage Mortgage in Fairfax. But add a $100 student loan payment to the mix, and the debt-to-income ratio could climb above the new restriction.

This threshold already applies to some types of loans, including "jumbo" mortgages, which exceed $625,500 in the Washington area. But it will not apply to other types of loans for several years.

"This change can affect a wide range of people with student debt. Graduate students, law students or even parents who've taken on their kids' student loan debt," Denfeld said. "I had one parent who was trying to refinance his house, but he'd taken out a student loan to pay for his child's college education, and his debt-to-income ratio was too high."

Without help from her parents, Melissa Nussbaum probably could not have bought her D.C. condominium two years ago, she said. After graduating from Georgetown University with a master's degree — and $75,000 in student debt — Nussbaum said she struggled for years to save for a down payment. Her parents came to the rescue.

"I imagine that most people don't have that kind of opportunity where they can go to their parents and have them help," said Nussbaum, 39. "I know people who are getting rid of their student debt by moving abroad to work in a developing country [for tax benefits and cost savings] so they can pay off their debt more quickly."

Of the 20 percent of first-time buyers who said it was difficult to save for a down payment, 54 percent said student loans made it tough to save money, according to a recent survey by the National Association of Realtors. About half of the people polled in another of the group's surveys said student debt was a "huge" obstacle to buying a home.

Recession's 'aftershocks'

The Consumer Financial Protection Bureau sounded the alarm about this trend in 2012 and did so again in November. Speaking before the Federal Reserve Bank of St. Louis, the CFPB's Rohit Chopra said that rising student debt "may prove to be one of the more painful aftershocks of the Great Recession," with implications for the housing market.

"With more and more Americans putting big chunks of their income toward student loan payments, that means they're less able to stash away extra cash for their first down payment," Chopra, the agency's student loan ombudsman, said in an interview.

Now, the Federal Housing Administration, a popular source of low-down-payment loans for first-time buyers, may make it even tougher. Currently, the agency allows the mortgage lenders it does business with to ignore student debt that's deferred for a year or more when assessing a borrower's eligibility for a loan. But it may scrap that waiver this year.

Researchers at the Federal Reserve Bank of New York weighed in last year with their own analysis of the student debt problem's impact. From 2009 to 2012, the homeownership rate fell twice as much for 30-year-olds who had a history of student loans than it did for those without such debt, they said. The finding upended traditional thinking, which held that student debt signaled higher earnings and higher chances of owning a home.

Chris Herbert, research director at Harvard University's Joint Center for Housing Studies, agrees with those who say the swelling student debt is a concern. But he also says it may not hobble young adults' access to the housing market as much as some fear.

In his own analysis, Herbert found that student loan debt is not all piled upon recent college graduates. Rather, it is evenly distributed among age groups as of 2010. Also, the median amount borrowed for school by people in their 20s "barely budged" from 2004 to 2010, hovering around $11,000 when adjusted for inflation, Herbert said.

Only a small share of the under-30 crowd is borrowing sizable sums, he said. But the trend in that age range is worrisome: The share of borrowers under 30 with more than $50,000 in outstanding student debt doubled from 5 percent to 10 percent. (Testifying before Congress in 2012, then-Federal Reserve Chairman Ben S. Bernanke said his son would probably graduate from medical school with $400,000 in student loan debt.)

"This could explain why some of them are sitting on the sidelines," Herbert said. "But it's a complex issue, and everyone's struggling to get a handle on what it means for the housing recovery."

More business news: Wonkblog: Student debt is terrible, in charts Why computers won't replace human workers Three reasons our economy isn't doomed

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Federal Student Loan Refinancing Act

This legislation would reduce rates for almost 9 in 10 Federally-owned or backed loans held by 37 million borrowers nationwide, saving borrowers $14.5 billion in the first year

	% of Consumers with Student Loan Debt	Balance per borrower	#of Borrowers (in thousands)	Borrower Default Rate
AK	14.9%	$24,760	64	11.4%
AL	13.5%	$25,240	553	14.1%
AR	14.3%	$22,440	342	17.5%
AZ	15.9%	$24,410	865	22.9%
CA	13.7%	$25,650	3,909	11.9%
CO	19.1%	$24,720	736	16.9%
CT	16.6%	$25,140	493	9.8%
DC	25.9%	$41,230	127	9.1%
DE	15.0%	$27,230	125	9.6%
FL	14.2%	$25,600	2,238	16.2%
GA	17.3%	$27,660	1,280	14.6%
HI	11.5%	$23,490	124	8.7%
IA	20.2%	$22,180	515	16.6%
ID	17.6%	$22,390	209	10.8%
IL	16.7%	$26,440	1,738	14.4%
IN	18.3%	$22,330	961	12.9%
KS	18.6%	$23,620	443	10.2%
KY	15.7%	$22,270	567	15.0%
LA	15.0%	$25,120	599	13.1%
MA	18.7%	$26,070	958	7.3%
MD	16.7%	$28,330	748	10.7%
ME	17.6%	$22,610	197	11.5%
MI	17.4%	$24,450	1,479	12.7%
MN	22.3%	$22,510	858	9.0%
MO	17.4%	$24,050	887	12.5%
MS	16.6%	$25,090	394	15.1%
MT	16.8%	$22,320	137	5.8%
NC	14.1%	$24,300	999	9.0%
ND	21.7%	$21,510	109	5.1%
NE	18.6%	$22,590	280	8.7%
NH	19.4%	$23,940	204	8.1%
NJ	16.9%	$25,680	1,136	12.2%
NM	14.6%	$23,090	231	12.5%
NV	12.5%	$22,810	246	15.2%
NY	17.5%	$27,310	2,767	10.9%
OH	18.8%	$24,760	1,941	13.2%
OK	15.8%	$22,610	499	17.3%
OR	17.1%	$24,370	540	13.0%
PA	18.5%	$24,910	2,018	10.1%
PR	9.6%	$18,460	321	22.3%
RI	16.9%	$24,030	157	11.2%
SC	16.0%	$25,140	574	10.2%
SD	20.3%	$21,120	134	10.3%
TN	14.1%	$24,740	761	15.9%
TX	15.8%	$22,790	2,950	16.1%
UT	15.4%	$22,140	294	10.1%
VA	15.4%	$26,310	963	10.7%
VT	18.8%	$23,470	98	5.7%
WA	14.2%	$23,870	749	11.3%
WI	17.2%	$22,460	791	8.0%
WV	14.4%	$22,920	235	14.0%
WY	15.0%	$20,660	58	14.3%

Source: FRBNY Consumer Credit Panel / Equifax and National Student Loan Data System

NATIONAL
ASSOCIATION *of*
REALTORS®

REALTOR®

Gary Thomas
2013 President

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April 5, 2013

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G St., NW
Washington, DC 20552

Re: Docket No. CFPB–2013–0004

[Transmitted electronically to www.regulations.gov.]

Dear Director Cordray:

I am writing on behalf of more than one million members of the National Association of REALTORS® (NAR) to comment on the Consumer Financial Protection Bureau's (CFPB) Request for Information on student loan affordability. Though the CFPB is seeking input on very important questions concerning the availability of affordable student loan options, we have outlined the potential implications rising student debt may have on consumer access to mortgage credit, and more broadly, homeownership due to pending and finalized mortgage finance regulations.

The National Association of REALTORS® is America's largest trade association, including our eight affiliated Institutes, Societies and Councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

On numerous occasions, REALTORS® have expressed concerns that rules affecting mortgage markets promulgated without consideration of others being written, will together, put access to homeownership out of reach for a growing number of consumers. As the CFPB and other policymakers evaluate options for addressing the affordability of student loans, NAR believe it is important to share our thoughts on how recent and pending rulemakings related to mortgage finance may impact those with growing student debt burdens who still hope to purchase a home at some point in the future.

Ability-To-Repay and the Definition of a Qualified Mortgage (QM)

Americans burdened with growing monthly debt payments will have restricted access to mortgage credit under the QM rule.

In January 2013, the CFPB released a regulation that outlined rules for lenders to determine whether a borrower has the ability to repay their mortgage loan. If the loan meets certain standards, it is designated as a Qualified Mortgage (QM), providing lenders a degree of protection from legal risks requested by many community banks and lenders. This means the QM rule will largely determine the underwriting standards that a majority of lenders will use to qualify prospective borrowers. Qualifying for a mortgage outside of these standards will likely become very difficult for many otherwise creditworthy consumers.

EQUAL HOUSING OPPORTUNITY

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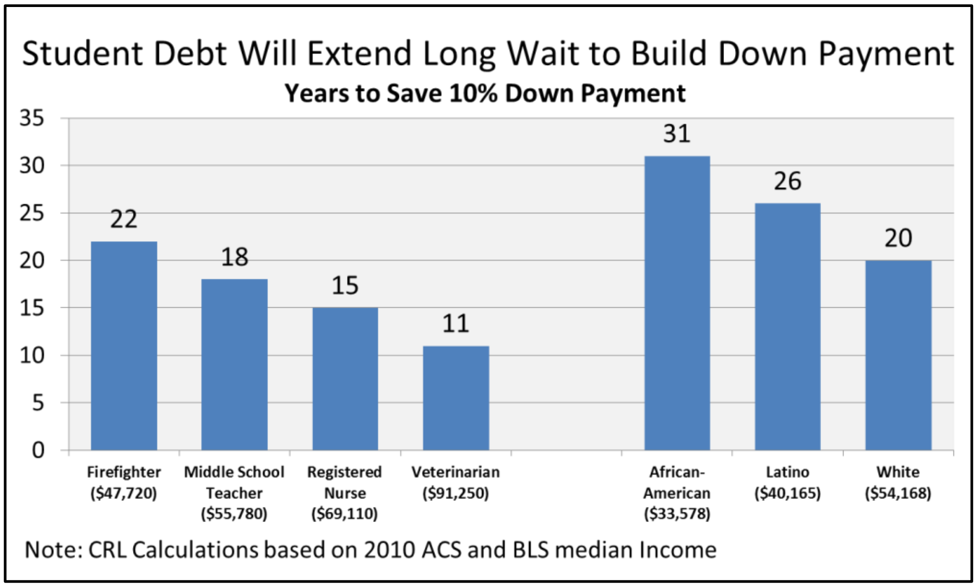
One significant aspect of the QM standard is a requirement that borrower payments on all debts, including those for their mortgage, car and student loan payments, be 43 percent or less of their total income. Though it may be a reasonable standard in many instances, the continued rise in student debt and the weak labor market may have a long term impact on the ability of many first time homebuyers to qualify under this standard, particularly lower income consumers. Many of these potential borrowers will find their student loan payments are a significant portion of their total monthly debt burden. As a result, many community banks and lenders will choose not to approve mortgage loans to a large number of these responsible and otherwise qualified borrowers. This scenario impacts not only those hoping to purchase their first home, but also homeowners looking to trade up to larger homes or refinance their existing mortgages.

The QM rule is the first of several that will impact access to mortgage finance and homeownership levels for graduates with a large amount of student debt. Two other pending regulations may also prevent a younger, debt burdened generation from accessing mortgage credit, based unnecessarily on high down payment requirements.

Risk Retention and the Qualified Residential Mortgage (QRM)

Under the proposed QRM definition, consumers unable to save for a down payment due to growing debt burdens will be denied access to the most reasonable loan terms.

In 2011, six regulators proposed a definition of a Qualified Residential Mortgage (QRM) as part of a broader Credit Risk Retention proposed rule as required by the Dodd-Frank Act. The QRM definition included standards that would require a 20 percent down payment and stringent debt-to-income ratio requirements. Should the continued rise of student loan debt impact the ability of responsible borrowers to save for a down payment, those borrowers will be unable to access the most affordable mortgage options. Though a vast majority of borrowers have been responsible and diligent in making their student loan payments, the ability of borrowers to save for many of the same reasons previous generations have including emergency savings, medical expenses, and down payments may become more difficult.



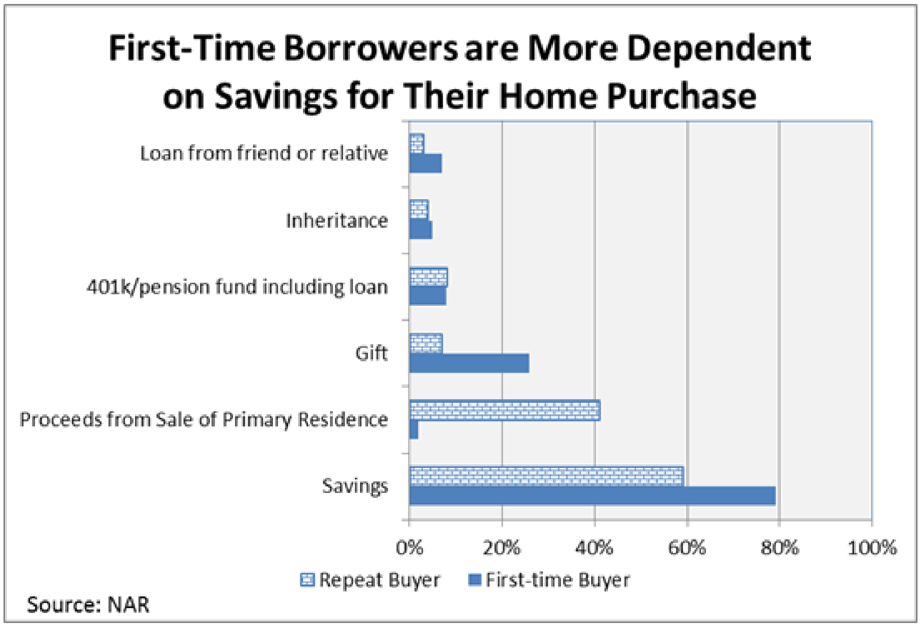
Even a 10 percent down payment requirement will make it more difficult for many borrowers to obtain a purchase mortgage. Therefore, to the extent that student loan debt makes it more difficult for future generations to save for a down payment, these borrowers may find that the QRM rule is another impediment to mortgage credit access, and certainly more expensive. In an effort to ensure that sustainable mortgage credit is accessible to the broadest possible segment of responsible borrowers, NAR has called on regulators to modify the QRM definition to one that is no more restrictive than the standards defined under the QM rule.

With a number of Americans facing difficult decision to take on increased amounts of student debt in order to earn the degree needed to be find even an entry level job, it is important to remove other unnecessary impediments for qualified borrowers to access affordable mortgage credit. Unfortunately, regulators are adding another layer of complexity with pending bank capital rules that will make it more expensive for banks to approve and hold mortgages and mortgage backed securities.

Basel III Bank Capital Standards

Potential homebuyers may also find that banks are unwilling to lend to those who are unable to save for a significant down payment due to substantial cost increases for banks resulting from new Basel III rules.

NAR supports strong capital requirements for our banking industry; however, in the near future young Americans may find that their community banks are less interested in approving mortgages for a new home purchase due to the expense of holding such loans. Again, the scenario becomes even more troublesome should increased student debt payments make it more difficult for future generations to save for a down payment, particularly first time homebuyers who are typically more reliant on savings.



Source: NAR

The proposed Basel III international capital rule dramatically increases the cost for banks to hold mortgages and mortgage backed securities not backed by the government. These tougher requirements are partially based on down payment. It is particularly harmful to borrowers with debt burdens who are unable to save 20 percent for a down payment since the cost for banks to hold these mortgages will rise 50 to 100 percent. Americans who find their ability to save for a down payment is impaired by substantial debt burdens may eventually find that their local bank will choose to hold more cost effective assets than their mortgage under the proposed rule, such as debt issued by foreign countries.

Conclusion

NAR appreciates the opportunity to comment on the CFPB's efforts to obtain more information on the affordability of student loans and their potential long term impacts on other areas of the economy such as housing. New mortgage finance rules will have the ultimate effect of reducing homeownership opportunities for responsible young Americans with rising monthly student debt payments that limit their ability to save for large down payments.

NAR believes that broader discussions of consumer finance issues and their impact on one another should not be avoided due to the complexity of coordination amongst Congress and various federal agencies. Regulators should work collectively to understand the broad implications of the entire economic framework of such issues as growing debt, regulations, and the future accessibility of housing finance.

We would be pleased to discuss these issues in more detail at your convenience. If you have any questions, please contact Charlie Dawson, our Policy Representative for Financial Services, at cdawson@realtors.org or 202.383.7522.

Sincerely,

Gary Thomas
2013 President, National Association of REALTORS®

S. 1066, The Federal Student Loan Refinancing Act

With Federal student loan debt surpassing $1 trillion, the *Federal Student Loan Refinancing Act* would automatically refinance these loans to a low rate, providing billions of dollars in savings to graduates and their families. This legislation would impact nearly 90% of the 37 million student loan borrowers nationwide.

Background:
Interest rates are at historic lows and everyone, homeowners, corporations, and even state and local governments are refinancing to reduce their debts. Refinancing allows the borrower to replace his or her existing debt with a new loan with a lower interest rate. This means borrowers will reduce the value of their debt, which frees up income for purchases and creates ripple effects throughout the entire economy.

However, student loan borrowers are being left out of this trend, and it is having a dramatic effect on the economy: 40% of graduates with college loans delayed making a major purchase such as a car because of college debt; 25% put off continuing their education or moved in with relatives to save money according to a Rutgers University study. By the end of 2012, there has been an almost 50% drop of 25- to 30-year olds with student debt who were granted a mortgage as compared to 2009. (Source: New York Federal Reserve)

How this bill works:

- The Secretary of Education will automatically lower all federally-owned loans to 4% and assess a 0**.**4% (of the value of the balance) one-time origination fee.
- Loans with a rate below 4% will keep that rate.

Eligibility: Graduates who are currently repaying their federally-owned loans that have an interest rate in excess of 4%.

Statistics on Refinancing:

- Nationwide: Of **37 million** borrowers of Federal Student Loans nationwide, **87%** of their loans will be eligible for refinancing. (Source: Center for American Progress)
- Nationwide**:** In the first year alone, there is an estimated $**14.5 billion in savings** for borrowers**.** (Source: Dept. of Ed.)

Statistics on Student Loan Debt:

- Total National Student Loan Debt (federal and private): **$1.1 trillion** (Source: Center for American Progress)
- Total National Federal Student Loan Debt: **$864 billion** (Source: Center for American Progress)

The nation's $1.1 trillion in student loan debt is contributing to sluggish economic growth, negatively impacting young borrowers' purchasing power, home and car ownership, and even small business growth and entrepreneurship. Keeping interest rates low would help reduce the debt burden on students and strengthen their purchasing power to boost economic growth.

Example of How an Individual Would Benefit:

- A 30 year old married woman has $26,000 in loans and pays 6.8% in interest, over 20 years. Over the life of the loan she will pay a total of $47,632 **of which $21,630 is interest**.
- Using refinancing, she will pay 4% interest for 20 years for a total of $37,810, **of which $11,810 is interest**.
- By refinancing to 4%, she will save roughly $9,800 in interest.

Committee Meeting Evaluation and Feedback
NATIONAL ASSOCIATION OF REALTORS®

Dear Committee Member: Your feedback on this committee meeting is important to the Association leadership. Please share your thoughts by completing this form and returning it to staff before you leave this meeting. Thank you!

Committee (please print clearly): ____

1. Please provide feedback on how the committee can better achieve its objectives:

____

____

2. Please suggest any other ways the chair and vice chair could better direct the committee's programs and agenda.

____

____

3. Please suggest methods of getting member input on committee issues other than a committee meeting (such as surveys, focus groups, forums, or feedback from other committees):

____

____

4. Can you suggest ways to make the committee experience more productive?

____

____

On a scale of 1 to 10, 10 being the highest rating:

1. How well did the meeting accomplish its objectives? 1 2 3 4 5 6 7 8 9 10

2. How well was the meeting organized? 1 2 3 4 5 6 7 8 9 10

3. How valuable did you find the prepared materials? 1 2 3 4 5 6 7 8 9 10

4. How well did the chair and vice chair demonstrate team leadership? 1 2 3 4 5 6 7 8 9 10

Other comments:

____

____

Optional -- please print -- Your name: ____

Thank you for your input and your commitment to the Association!